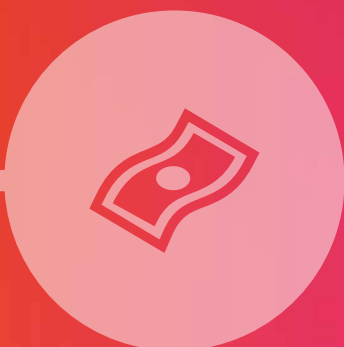
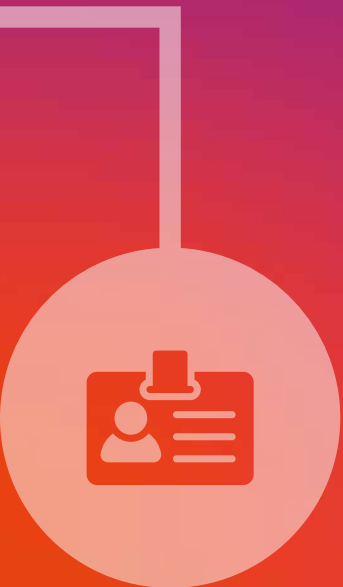




FUNDRAISING  
REGULATOR

# Code of Fundraising Practice

Effective October 2019



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# About the Fundraising Regulator

We are the independent regulator of all fundraising carried out by or on behalf of charitable, philanthropic and benevolent organisations in England, Wales and Northern Ireland. We also regulate fundraising in Scotland carried out by charities registered in England, Wales and Northern Ireland. Our role includes maintaining and developing the UK-wide Code of Fundraising Practice and investigating complaints from members of the public about fundraising practice if these cannot be resolved by the charities themselves.



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## Introduction

The Code of Fundraising Practice (the code) sets out the responsibilities that apply to fundraising carried out by charitable institutions and third-party fundraisers in the UK. The terms 'charitable institution' and 'third-party fundraiser' are explained below. For the purposes of the code, fundraising means to ask for money or other property for charitable, benevolent or philanthropic purposes, and it covers a wide range of fundraising methods.

The code was initially developed by fundraisers through the work of the Institute of Fundraising (IoF) and the Public Fundraising Association (PFRA). We have been responsible for the code since 7 July 2016.

The code aims to:

- promote a consistent, high standard of fundraising;
- make sure charitable institutions, their governing bodies and fundraisers know what is expected of them;
- set out the standards we use when considering complaints;
- provide a benchmark for organisations and fundraisers to assess their practices against so they can identify necessary training and monitor and set policy priorities for their fundraising; and
- develop a culture of honesty, openness and respect between fundraisers and the public.

The following four values support all standards in the code.

**Legal:** All fundraising must meet the requirements of the law.

**Open:** Fundraisers must be open with the public about their processes and must be willing to explain (where appropriate) if they are asked for more information.

**Honest:** Fundraisers must act with integrity and must not mislead the public about the cause they are fundraising for or the way a donation will be used.

**Respectful:** Fundraisers must demonstrate respect whenever they have contact with any member of the public.

### The code and the law

The code includes standards that reflect the law, but it is not designed to be a legal handbook. We have revised the code to make it as clear and understandable as possible for everyone. But fundraising law is complex and comes from many sources. Laws and regulations also change over time and new methods of fundraising are developed.

You are responsible for making sure that you get the advice you need to meet the requirements you have to meet by law. If there is a difference between the code and the relevant legislation or regulations, you must follow the law rather than the code.

## Applying the code

Each standard uses the term 'you' (and 'your'). To make it easy to use, we have set out who we mean by 'you' at the beginning of each section, and the code includes a glossary of terms. Unless we say otherwise at the beginning of a section, 'you' (and 'your') means the following:

- A **charitable institution** which asks for money or other property for charitable, benevolent or philanthropic purposes. 'Charitable institution' means charities (registered or unregistered) and voluntary organisations established for purposes which may not be strictly charitable, but which are benevolent or philanthropic. This includes 'exempt' charities such as charitable higher education institutions. (Exempt charities are those which are not required to be directly regulated by the Charity Commission for England and Wales because they are regulated by another body or authority.)
- A **third-party fundraiser** which asks for money or other property for charitable, benevolent or philanthropic purposes. 'Third-party fundraiser' means an organisation or person a charitable institution has authorised to ask for donations on its behalf. This may be a volunteer, professional fundraiser or commercial partner if they are fundraising.

The code also applies to other organisations that carry out fundraising and online fundraising platforms.

You must make sure you meet the standards in the code and must be able to justify the decisions you make. You must make your staff and volunteers aware of the standards and adequately train and monitor them if the standards are relevant to their responsibilities.

We use 'must' and 'must not' for all of the standards in the code.

- Standards where **must** and **must not** are in bold text indicate a standard based on a strict legal requirement (for example, a piece of law or case law).
- Standards where must and must not are not in bold text, indicate a regulatory standard that is not based on a strict legal requirement.

All of the standards are equal, and trust and confidence in fundraising could be undermined if they are not met. The code also highlights other industry codes of practice and standards that apply to fundraising. It is designed to add to these rather than replace them.



### **Commitment to the code**

By registering with us, charitable institutions, third-party fundraisers and online fundraising platforms agree to meet the code. In doing so, they support the system of voluntary regulation to make sure that all fundraising organisations work in line with the code's values.

Organisations who register also commit to the **Fundraising Promise**. The promise sets out the commitment that those who register with us make to donors and the public to meet the standards in the code. We consider complaints about meeting the standards in the code.

### **Investigating complaints**

We may investigate:

- complaints from the public about fundraising, if these cannot be resolved by the charities themselves; or
- fundraising that has caused or could cause significant public concern.

When considering complaints we will use the version of the code that was in effect at the time of the incident. Our **complaints process** provides more information about how we investigate complaints.

In Scotland, complaints about Scottish-registered charities are dealt with by the Scottish Fundraising Standards Panel.

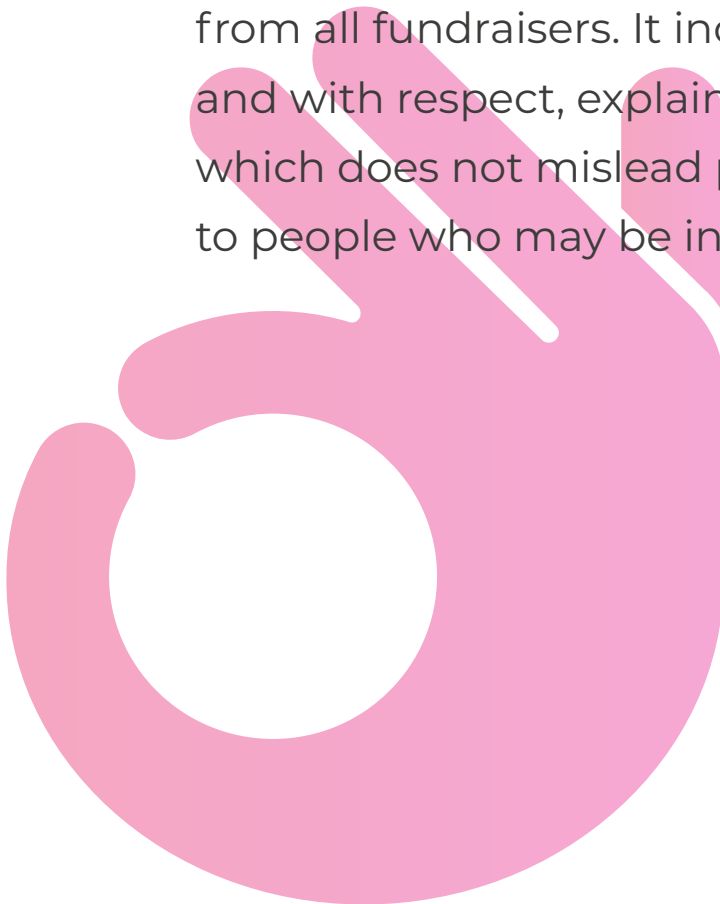
We and the Scottish Fundraising Standards Panel follow a 'lead' regulator model in considering complaints. This means that when a complaint is made, either we or the Scottish Fundraising Standards Panel will consider it, depending on which country the charity is primarily registered in. There is more information in our **Memorandum of Understanding** which you can read on our website at: [www.fundraisingregulator.org.uk](http://www.fundraisingregulator.org.uk)

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# Part 1: Standards which apply to all fundraising

The way charitable institutions and third-party fundraisers ask for support affects people's trust and confidence in fundraising.

This section sets out the behaviour we expect from all fundraisers. It includes treating people fairly and with respect, explaining your cause in a way which does not mislead people, and being sensitive to people who may be in vulnerable circumstances.



## 1. Behaviour when fundraising

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

### 1.1. General behaviour

- 1.1.1 Your fundraising **must** be legal and must be open, honest and respectful.
- 1.1.2 You must be polite to people at all times.
- 1.1.3 You must not unfairly criticise or insult other people or organisations.
- 1.1.4 You **must not** encourage a donor to cancel or change an existing donation in favour of a donation to another charitable institution.

### 1.2. Asking for support

- 1.2.1 While reasonable persuasion is allowed, you must not fundraise in a way which is an unreasonable intrusion on a person's privacy, is unreasonably persistent or places undue pressure on a person to donate.
- 1.2.2 You must not continue to ask a person for support if that person clearly indicates – by word or gesture – that they do not want to continue to speak to you. You must end the conversation in a polite way.

### 1.3. Informing donors and treating people fairly

- 1.3.1 You and the fundraising materials you use must not mislead anyone, or be likely to mislead anyone, either by leaving out information or by being inaccurate or ambiguous or by exaggerating details.
- 1.3.2 Before you make any direct or implied claim in your fundraising which is likely to be taken literally, you must make sure that there is evidence to prove the claim.
- 1.3.3 You must not take advantage of mistakes made by a donor.
- 1.3.4 When talking about finances and financial benefits, you must tell donors that you are not in a position to offer formal financial advice.
- 1.3.5 Your fundraising **must** meet equality law as it applies in England, Wales, Scotland and Northern Ireland. You **must not** discriminate against people with characteristics protected under the law of these countries. You can get more information from the [Equality and Human Rights Commission](#) and the [Equality Commission for Northern Ireland](#).
- 1.3.6 You must take all reasonable steps to treat a donor fairly, so that they can make an informed decision about any donation.

- 1.3.7 You must take into account the needs of any possible donor who may be in vulnerable circumstances or need extra care and support to make an informed decision.
- 1.3.8 You must not exploit the trust, lack of knowledge, apparent need for care and support or vulnerable circumstance of any donor at any time.
- 1.3.9 You must not take a donation if you know, or have good reason to believe, that a person lacks capacity to make a decision to donate, or is in vulnerable circumstances which mean they may not be able to make an informed decision. Among other things, you should consider:
- any physical or mental-health condition the person may have;
  - any disability the person may have;
  - any learning difficulties the person may have;
  - whether the person is facing times of stress or anxiety (for example, following the death of a loved one or redundancy);
  - whether a donation is likely to affect the person’s ability to sufficiently care for themselves or leave them in financial hardship;
  - how well the person can speak and understand English;
- whether the person is under the influence of alcohol or drugs; and
  - the person’s age.
- 1.3.10 If a donor makes a donation while they do not have the capacity to make an informed decision, you must return the money to them.
- 1.3.11 You must take all reasonable steps to avoid asking for regular donations (for example, by direct debit) from anyone aged under 18. Young people aged between 16 and 18 can take part in charity lotteries, but if you receive money for a lottery from a child or young person aged under 16 you **must** return the money. For more information about the definition of a donation, please see the glossary.

For more standards on fundraising that involves children (in particular, age limits and data protection), see **section 6 Fundraising involving children**.

**Further guidance**  
The Institute of Fundraising: **Treating Donors Fairly** for guidance on people in vulnerable circumstances

## **2. Responsibilities of charitable institutions and those who govern them**

Charitable institutions and those who govern them have a responsibility to act in the best interests of their organisation. They are responsible for fundraising.

This section sets out the standards we expect, including those related to risk assessments, effective complaints-handling procedures and making sure charitable institutions use donations for the purposes for which they are given.

### **Charities**

The overriding duty of all charity trustees is to act in the best interests of their charity at all times. In doing this, trustees have several basic responsibilities related to fundraising.

#### **England and Wales**

If you are a charity established in England and Wales, you can find guidance in the [Charity Governance Code](#) and in the Charity Commission for England and Wales's [CC20 guidance for trustees](#) and [essential trustee guide \(CC3\)](#)

#### **Scotland**

If you are a charity registered in Scotland, the Scottish Charity Regulator's (OSCR's) [Fundraising guidance for Charity Trustees](#) provides information on the legal requirements of Scottish charity law in relation to fundraising and the duties of charity trustees. You can find more information in OSCR's [Guidance and Good Practice for Charity Trustees](#) and the [Scottish Governance Code](#).

#### **Northern Ireland**

If you are a charity registered in Northern Ireland, the Charity Commission for Northern Ireland's (CCNI's) guidance [Fundraising for Charities](#), its bitesize guidance [Fundraising at a Glance – a guide for charity trustees](#) and [Fundraising at a Glance – a guide for members of the public](#) provide information on the legal requirements and good practice in relation to fundraising and the duties of charity trustees. You can find more information in CCNI's [Running your Charity guidance](#) which sets out the principles and main elements of good governance for the trustees of charities in Northern Ireland.

## **Organisations established for philanthropic and benevolent purposes**

The governing bodies of non-charitable voluntary organisations will have similar duties to those set out above in relation to charities.

### **2.1. General duties**

**i** *In this section, 'you' means the members of the governing body of a charitable institution.*

- 2.1.1 You **must** take overall responsibility for the fundraising activities of your charitable institution, including if you have delegated responsibility for certain roles to another person.
- 2.1.2 You must consider national guidance when overseeing the fundraising activities of your charitable institution and anyone else fundraising on its behalf.
- 2.1.3 You **must** act in the best interests of your charitable institution.
- 2.1.4 You **must** be aware of possible conflicts between the duties you owe to your charitable institution and the duties or loyalties you have to others. You must follow your charitable institution's conflicts procedures and disregard any other interests you have when making decisions relating to the organisation.

- 2.1.5 You **must** make sure that your charitable institution's assets and resources are used only for the purposes for which they were given (which may be all or just some of the institution's purposes). If the charitable institution is a charity, you **must** make sure it is run in line with its governing document, charity law and all other laws and regulations that apply.
- 2.1.6 You must act reasonably and carefully in all matters relating to fundraising. If you are not experts in fundraising, you must take appropriate advice.
- 2.1.7 You must make it clear to all people fundraising on your behalf that they **must** make sure that your charitable institution receives all the money they have raised.
- 2.1.8 You must consider the effect of controversial fundraising campaigns on the charitable institution's reputation.

For more standards on accepting, refusing and returning donations, see **section 2.3 Accepting, refusing and returning donations**.

### **Further considerations specifically for charity trustees in Scotland**

2.1.9 You must meet the Charities and Trustee Investment (Scotland) Act 2005 and any regulations made under it or which affect charities.

In particular:

- you **must** follow the charity's governing document and the charity trustee duties under section 66 of the 2005 Act; and
- you **must** act in the interests of your charity, make sure you act in a way which is consistent with your purposes, and act with the 'care and diligence' that it is reasonable to expect of a person who is managing the affairs of another person.

### **Further considerations specifically for charity trustees in Northern Ireland**

The duties and responsibilities trustees have with regard to fundraising all fall under the general duties of charity trustees to be responsible and accountable for their charity and to act at all times in the best interests of the charity, with an overall duty to control and protect the charity, its beneficiaries, assets and reputation.

## **2.2. Risk assessment**

**i** *In this section, 'you' means the members of the governing body of a charitable institution.*

2.2.1 You must take reasonable steps to assess and manage any risks fundraising poses to your charitable institution's activities, beneficiaries, property, work and reputation.

2.2.2 You **must** meet the Proceeds of Crime Act 2002, which applies to money or other property that has been gained through criminal behaviour, even if the behaviour is legal in another country.

2.2.3 You **must** meet any legal obligations to protect the health and safety of employees, volunteers, the public and anyone else who might reasonably be considered to be affected by your charitable institution's fundraising activities. For more information, see the websites of the Health and Safety Executive and Health and Safety Executive Northern Ireland.

### 2.3. Accepting, refusing and returning donations



*In this section, 'you' means the governing body of a charitable institution. You must make those fundraising on your behalf aware that decisions relating to refusing or returning a donation must be made by you or in line with a policy you have set.*

- 2.3.1 You **must not** refuse or return donations, except in exceptional circumstances.
- 2.3.2 If you decide to refuse a donation, you must keep a record of your decision and the reasons for it.
- 2.3.3 You must carry out due diligence, appropriate for the size and nature of the donation, on both the financial and reputational dealings of possible partners before accepting their donations.
- 2.3.4 You must only refund donations in line with your charitable institution's policies or in exceptional circumstances. If it is unclear whether or not you should give a refund, consider getting legal advice.
- 2.3.5 You must give a refund if a donor correctly exercises their right to one.

#### **Further guidance**

The Institute of Fundraising: [Acceptance, refusal and return: A practical guide to dealing with donations](#)

Charity Commission for England and Wales: [Returning money to charities](#) – for guidance on returning money received from a charity



## **2.4. Complaints and concerns about fundraising**

**i** *In this section, 'you' means a charitable institution and the members of its governing body.*

2.4.1 You must have a clear and publicly available complaints procedure which must also apply to third-party fundraisers.

2.4.2 You must make sure fundraisers can explain to members of the public how to make a complaint.

2.4.3 You must make sure that:

- complaints are investigated thoroughly and fairly to find out the facts of the case, avoiding unnecessary delay, and
- you respond to complaints fairly and in a way that is in proportion to the complaint.

2.4.4 You must regularly review any lessons to be learnt from complaints and use that learning to help you with future fundraising activity.

2.4.5 You must have a clear and published procedure for members of staff and volunteers to report any concerns they have about your fundraising practice. This could be either a stand-alone policy or part of a wider whistleblowing policy which is available to staff and volunteers. You must make sure the policy includes:

- the type of issues that can be raised and the process for doing so;
- how the person raising a concern will be protected from victimisation and harassment;
- what you will do when you receive a concern; and
- how a person can report their concerns to us (The Fundraising Regulator) or the Scottish Fundraising Standards Panel if it is not possible for it to be considered or resolved within your charitable institution.

### **Further guidance**

The Fundraising Regulator:  
[Complaints handling guidance](#)

## 2.5. Paying fundraisers



*In this section, unless we say otherwise, 'you' means a charitable institution and the members of its governing body.*

- 2.5.1 You **must** use all funds reasonably and sensibly in the interests of your charitable institution. This involves making sure that what you pay your fundraisers is proportionate to the benefit you reasonably expect to gain from their work.
- 2.5.2 You must not pay fundraisers excessive amounts. Where appropriate, you must put a cap on how much you pay fundraisers or use a reducing sliding scale to avoid excessive pay.
- 2.5.3 You must have effective systems in place for managing performance and recognising the effect the payment method can have on the fundraiser, you, the beneficiaries and the public.
- 2.5.4 You must not use commission payments unless:
- you have explored and exhausted all other sources of fundraising investment;
  - you (or senior executives, if you have delegated power to them) approve any payments; and
  - there are measures in place to make sure excessive payments are not allowed.
- 2.5.5 You must monitor commission payments to make sure that they continue to strike a balance between reducing risk and encouraging fundraisers effectively.
- 2.5.6 If you directly employ people to fundraise, you **must** make sure that the method of payment you choose meets the Employment Rights Act 1996 (in Northern Ireland The Employment Rights (Northern Ireland) Order 1996), and you **must** meet the minimum wage rules set out in the National Minimum Wage Act 1998.
- 2.5.7 You **must** make sure that professional fundraisers, commercial participators and, where this applies, your own staff give solicitation statements when they ask for donations on behalf of your charitable institution.

For more standards on solicitation statements, see **section 2.6 Solicitation statements for paid employees, officers and trustees of charitable institutions and connected companies** and **section 7.4 Solicitation (disclosure) statements for paid third-party fundraisers and commercial participators**.

2.5.8 If you are a charity trustee, you **must not** be paid for fundraising for your charity unless you meet specific conditions which depend on the country you are based in. You can find more information here.

- Charity Commission for England and Wales: [Payments to charity trustees: what the rules are](#) and [section 185 of the Charities Act 2011](#)
- Office of the Scottish Regulator: [Guidance and good practice for charity trustees](#) and [section 67 of the Charities and Trustee Investment \(Scotland\) Act 2005](#)
- Charity Commission for Northern Ireland: [Guidance on trustee expenses and payment](#), and [section 88 of the Charities Act \(Northern Ireland\) 2008](#)

## 2.6. Solicitation statements for paid employees, officers and trustees of charitable institutions and connected companies

**i** *In this section, ‘you’ means the paid employees, officers and members of the governing body of a charitable institution or connected company.*

### England and Wales

2.6.1 If you are carrying out a public charitable collection, and are paid more than £10 per day or more than £1,000 per year to collect donations for the benefit of one or more charitable institutions and are not a professional fundraiser, you **must** make a statement saying:

- the name of the charitable institution or institutions which will benefit and, if there is more than one, the proportions in which they will benefit;
- that you are an officer, employee or member of a governing body of a charitable institution; and
- that you are receiving payment as an officer, employee or member of a governing body, or for acting as a collector. You do not have to say how much you receive.

2.6.2 You must make the statement either before the donor gives any money or before you ask for any financial details relating to the donation (whichever is sooner).

2.6.3 If you ask for a donation for general charitable, benevolent or philanthropic purposes (not for a specific named charitable institution), you **must** make a similar statement that you are being paid for those general purposes.

#### **Scotland**

For more standards on solicitation statements in Scotland, see **section 7.4 Solicitation (disclosure) statements for paid third-party fundraisers and commercial participators**.

#### **Northern Ireland**

2.6.4 You must follow the same standards as in England and Wales.

## **2.7. Using funds**

**i** *In this section, 'you' means the members of the governing body of a charitable institution.*

A donation must be used for the purpose for which it was given. If you want to change that purpose you should get advice from legal advisers or the relevant national statutory regulator before changing the purpose, even if the person making the donation has given you permission to do this.

2.7.1 You **must** use all funds raised for a particular cause for that cause.

2.7.2 You **must** make sure that donations are used to support the cause in line with any conditions attached to the donation. This may be conditions the donor sets when making the donation or representations you make (either verbally or in fundraising materials) about how the money will be used.

2.7.3 You must keep a record of donations that are given for specific purposes to make sure that you keep to the conditions of the donation.

2.7.4 You must make sure that you do not suggest money is for a restricted purpose (such as buying a goat, or helping a particular child) when it may be used for a different purpose or for the general purposes of a charitable institution.

2.7.5 If you are fundraising for a particular purpose, you must include a statement saying what will happen to funds you receive if the total amount raised is not enough to reach (or is more than) the target.

For more standards on accepting, refusing and returning donations, see section **2.3 Accepting, refusing and returning donations**.

2.7.6 You **must not** ask for funds for a purpose that does not fit within the purposes of your charitable institution.

2.7.7 If you encourage someone to donate by offering benefits, you must make sure:

- you have the power to give the benefits;
- the benefits are appropriate in the circumstances; and
- the benefits are proportionate to the size and frequency of the donation.

2.7.8 You must be aware when benefits cancel out possible tax relief such as Gift Aid or top-up payments available under the small-donation rules. If benefits do prevent the donation qualifying under Gift Aid or the **Gift Aid Small Donations Scheme** rules, you **must not** try to reclaim tax on the donation. The **tainted donations rules** may apply to some benefits.

#### **Further guidance**

- HM Revenue & Customs: **Chapter 3.18 Charities: detailed guidance notes on how the tax system operates** – for guidance on the limits on benefits that can be offered without tax consequences
- Charity Commission for Northern Ireland: **Requesting a scheme** – for guidance on changing the purpose of a donation
- Office of Scottish Charity Regulator: **Restricted funds organisation** – for guidance on changing the purpose of a donation
- Charity Commission for England and Wales: **Charities: due diligence, monitoring and verifying the end use of charitable funds**

## 2.8. Accounting and reporting



*In this section, 'you' means a charitable institution and its governing body.*

- 2.8.1 You **must** follow all legal accounting requirements.
- 2.8.2 If you are a charity that the Charity Statement of Recommended Practice (SORP) applies to, you must follow it in your accounting and reporting.
- 2.8.3 You must meet any specified reporting requirements if they apply to a donation.

### Further considerations England and Wales

- 2.8.4 If you are a charity and you have to have your accounts audited under section 162A of the Charities Act 2011, under section 13 of the Charities (Protection and Social Investment) Act 2016 you **must** state in your trustee annual report:
- your approach to fundraising, and whether you used a professional fundraiser or commercial participator;
  - details of any voluntary regulatory fundraising schemes or standards which you or anyone fundraising on your behalf has agreed to;

- details of any circumstances where you have failed to keep to a scheme or standard;
- whether, and if so and how, you monitored fundraising activities carried out on your behalf;
- how many complaints you or anyone acting on your behalf has received about fundraising for your charity; and
- what you have done to protect vulnerable people and others from unreasonable intrusion on their privacy, unreasonably persistent approaches or undue pressure to give, in the course of or in connection with fundraising for your charity.

### Further guidance

- Charity Commission for England and Wales: Charity reporting and accounting: the essentials
- Office of Scottish Charity Regulator: Charity accounting
- Charity Commission for Northern Ireland: Charity reporting and accounting: the essentials
- Charity Commission for England and Wales: Charity reporting and accounting: the essentials November 2016 (CC15d)
- The Fundraising Regulator: Guidance on the Charities Act 2016

### **3. Processing personal data (information)**

Protecting personal data makes sure people can trust you to use their data legally, fairly and responsibly. This section sets out the standards we expect when processing personal data, including standards related to direct marketing.

#### **The rights people have over their data**

The General Data Protection Regulation (GDPR) gives people the following rights in law regarding their personal data.

- The right to be informed
- The right of access
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- Rights in relation to automated decision making and profiling

The Information Commissioner's Office (ICO) has provided **guidance** on these rights.

#### **Special category data**

Certain types of data need stronger protection. This includes, for example, information relating to their:

- race
- ethnic background
- political opinions
- religion
- trade-union membership
- genetics
- biometrics (computerised details used to identify a person through their unique characteristics, for example through fingerprint scanning and facial recognition)
- health
- sex life, or
- sexual orientation (sexuality).

Guidance on conditions for processing **special category information** is available from the ICO.

### 3.1. General requirements for personal data



*In this section, 'you' means a charitable institution or third-party fundraiser who processes personal data.*

3.1.1 You **must** meet all legal requirements relating to data protection, including:

- the [Data Protection Act 2018](#);
- the [General Data Protection Regulation \(GDPR\)](#); and
- the [Privacy and Electronic Communications \(EC Directive\) Regulations \(PECR\) 2003](#), including the requirements of the [Telephone Preference Service \(TPS\)](#), and any revisions to e-privacy legislation that result from the European Commission's review of PECR that began in 2017.

3.1.2 You must keep up to date with guidance from the ICO. This includes the ICO's [direct marketing guidance](#), its [GDPR consent guidance](#) and [legitimate interests guidance](#).

3.1.3 If you process personal data, you **must** pay the data protection fee to the ICO, unless you are exempt.

3.1.4 When processing personal data (including information that is available to the public) for any purpose, you **must**:

- have a lawful basis (a valid legal reason) for collecting, using and keeping the personal data (for more information on the grounds (or 'conditions') for processing personal data, see articles 6 and 9 of the [GDPR](#));
- give people concise, open, understandable and easily accessible information about how you will process their personal data, including who your organisation is, what you are going to do with their personal data and who (if anyone) you will share it with;
- only process personal data in ways that the person whose data it is would reasonably expect; and
- **not** do anything unlawful with personal data.




3.1.5 You **must** meet any duties you have to keep data confidential. You **must not** share data if you have a legal duty to keep the data confidential, unless there is an overriding legal reason to do so. For example, if a court ordered you to release the data.

#### **Further guidance**

- Information Commissioner’s Office: [Guide to Privacy and Electronic Communications Regulations](#)
- Information Commissioner’s Office: [Right to be informed](#) – for guidance on privacy information and notices
- Information Commissioner’s Office: [Data Protection fee](#) – for information on how to register with the ICO

### **3.2. Storing and maintaining personal data**

 ***In this section, ‘you’ means a charitable institution or third-party fundraiser.***

3.2.1 You **must** make sure that all materials, in particular filled-in donor forms, are stored securely and in line with your obligations under data protection law.

3.2.2 You **must** make sure that data you keep about donors is accurate and reflects their communication preferences, and only keep it for as long as is necessary for:

- the purpose or purposes you are processing it for;
- purposes compatible with these stated processing purposes; or
- a purpose that is allowed by law and is in the public interest.

3.2.3 You must be able to show that you have taken all reasonable steps to make sure that:

- databases are accurate and, where necessary, up to date;
- you don't send direct marketing to people who have told you they don't want to receive it; and
- you stop sending communications addressed to people you know have died.

3.2.4 You must have appropriate systems or procedures in place (such as a list of people not to contact) to make sure that you do not send direct marketing to people who have asked not to receive it.

3.2.5 You **must** either stop sending direct marketing to a person within a reasonable period (as soon as possible, but in any case within 28 days) or not begin to process a person's personal data for the purpose of sending them direct marketing if you receive notice from, or on behalf of, that person telling you that they don't want to receive direct marketing. For example:

- a notice from (or sent on behalf of) a person through the Fundraising Preference Service telling you that a request to stop contact has been made, or
- any other clear indication from a person (or made on their behalf) that they do not want you to contact them for direct marketing purposes. This indication may include giving you their contact preferences or unsubscribing from mailing lists.

#### **Further guidance**

- Information Commissioner's Office: Right to object – for guidance on people's right to object to you processing their personal data
- Information Commissioner's Office: Principle (b): Purpose limitation – for guidance on keeping to the limits on the purposes you are allowed to process personal data for

### **3.3. Sharing and selling personal data**



*In this section, 'you' means a charitable institution or third-party fundraiser.*

3.3.1 You **must not** share personal data with any other organisation unless you have a lawful basis to share it and can prove that you meet the processing requirements in **section 3.1** above.

3.3.2 If personal data is shared between organisations:

- within a federated structure (in other words, where one organisation controls the other or where both are controlled by the same parent organisation); or
- under a data-processing arrangement (where one organisation acts on behalf of another organisation under a written contract, such as professional fundraisers, data management companies or printing houses);

the organisational structure or arrangement and the reason for processing the data **must** be clear in the privacy information you give to the person in order to meet their right to be informed. Or, if the organisation receiving the data needs the person's consent (permission) to hold and use their data, the organisation or

category of organisation receiving the information **must** be named in the request for consent, and the organisation sending the request for consent **must** receive the person's specific consent for their data to be shared.

3.3.3 You **must not** share a person's personal data with any other organisation for that organisation's marketing purposes unless you are allowed to do so by law, either because you have the person's consent to do so or through the exceptions in **3.3.2**.

3.3.4 You must not sell a person's personal data to any other organisation, unless you can show that you have that person's freely given, specific, informed and unambiguous consent to sell their data.

### 3.4. Case studies

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

3.4.1 If you plan to use a real-life example of a person in a case study, you **must** only process that person's personal data in line with the law.

For more standards on processing data in line with the law, see **section 3 Processing personal data (information)**.

3.4.2 If you want to use a case study which identifies a person who has died, you must make all reasonable efforts to get permission from that person's estate.

### 3.5. Direct marketing

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

Direct marketing is defined in law as 'The communication (by whatever means)... of any advertising or marketing material... which is directed to particular individuals...'.

The ICO states that fundraising activity, as well as charities' promotional and campaigning work, is covered by the definition of direct marketing.

In practice, fundraising messages which are sent electronically (for example, phone calls, faxes, texts and emails) or by addressed mail are likely to be directed to a specific person, and so are covered by this definition.

The marketing must be directed to particular people. Some marketing is not directed to specific people (for example, unaddressed mail) and so is not covered by this definition.

Alongside data protection legislation that applies when processing personal data for direct marketing purposes, the Privacy and Electronic Communications Regulations (PECR) will apply when sending marketing electronically, such as by email or text message and in recorded phone calls. In these cases, you will always need the person's consent to send them direct marketing, unless:

- the 'soft opt-in' condition which allows businesses who have received a person's contact details when selling a product or service to them (or during negotiations relating to a possible sale) to market similar products and services to that person; or
- you are marketing to businesses or organisations (including where you contact an individual using a corporate email address such as 'firstname.surname@companyname.com').

3.5.1 You **must** have a lawful basis for processing personal data in order to send direct marketing communications to people.

The standards on 'consent' and 'legitimate interest', the two most common lawful bases for processing personal data in order to send direct marketing communications, are set out below.

### Further guidance

- Information Commissioner's Office: Direct Marketing Guidance
- Information Commissioner's Office: Electronic mail marketing – for guidance when the PECR do not apply
- Information Commissioner's Office: Lawfulness for processing – for guidance on processing personal data in line with the law

## **Consent for direct marketing communications**

3.5.2 If you use, or plan to use, consent as a lawful basis for processing personal data in order to send direct marketing communications, the consent **must**:

- be a freely given, specific, informed and unambiguous indication of the person’s wishes;
- be given through a clear positive action from the person concerned to show they have given consent (for example, using active methods, such as ticking an unticked opt-in box or answering ‘yes’ to a question);
- give options for different levels of consent for different types of processing if you plan to process the person’s data for more than one purpose;
- be separate from your other terms and conditions and not be something the person has to give when signing up to a service (unless you need the consent to be able to provide that service);
- name your organisation and any others who will be relying on the consent;
- tell people about their right to withdraw their consent and make it as easy for them to withdraw consent as it is to give it; and

- be recorded in a way that allows your organisation to show who gave consent, when they gave consent, how they gave consent, and what they were told in connection with giving consent.

3.5.3 Electronic requests for consent **must** be clear and concise and must not unnecessarily disrupt the use of the service the consent is for. For example, you can achieve this by breaking a longer privacy notice into shorter pieces of privacy information which pop up only at the point where a person is asked for their personal data.

3.5.4 If you have a person’s consent to send them direct marketing communications, you:

- must offer them an easy way to withdraw their consent (such as an ‘unsubscribe’ button in any communications you send);
- must, as often as your organisation reasonably decides, remind the person of their contact preferences and offer them an easy way to change these if they want to (such as an ‘update your communication preferences’ button); and
- **must** update the person’s record as necessary to reflect changes to their consent or contact preferences.

3.5.5 You must make sure that all consent statements (wording to gain consent for marketing purposes) displayed in your fundraising materials are at least the same font size as:

- any text which asks for personal data; or
- any text which states the donation amount;

whichever is bigger.

3.5.6 If there is no text asking for personal details or stating the donation amount, your consent statements must be in a font size of at least 10.

### **Legitimate interest as a basis for direct marketing communications**

3.5.7 If you are using legitimate interest as the basis for processing data for the purpose of direct marketing by live phone call or by post, you **must** be able to show that you:

- have identified a legitimate interest (under ICO guidance, this may be your organisation's own interest or the interest of third parties and may include commercial interests, individual interests and broader benefits to society);

- need to process the data to achieve that interest (under ICO guidance, if the same result can reasonably be achieved in another, less intrusive way, legitimate interests will not apply); and
- have balanced your interest in processing the personal data against the interests, rights and freedoms of the person to make sure that your interests are not overridden by theirs (under ICO guidance, if the person would not reasonably expect you to process their data or it would cause them unjustified harm, their interests are likely to override yours).

3.5.8 If you are relying on the legitimate interest condition as the lawful basis to process data, you must have a record of your decision-making to help show that you meet the conditions set out above.

3.5.9 If you are relying on the legitimate interest condition as the lawful basis to process data for the purpose of direct marketing by phone or post, your privacy notice:

- **must** explain what you will use the personal data for;
- **must** explain your legitimate interests; and
- must offer, in the privacy notice and in any other direct marketing communication you send, a clear and simple way for the person to tell you that they do not want to receive direct marketing in future.

#### Further guidance

- Information Commissioner’s Office: Right to be informed – for guidance on privacy notices
- Information Commissioner’s Office: Legitimate interests – for guidance on using this as a lawful basis to process data
- Information Commissioner’s Office: Consent – for guidance on using this as a lawful basis to process data

### 3.6. Requests from people to access their personal data

**i** *In this section, ‘you’ means a charitable institution or third-party fundraiser.*

3.6.1 If you process a person’s personal data, you **must**, if that person asks you to, give them a copy of the personal data you hold about them and details of how you use it in line with the person’s right of access (exemptions may apply to this).

3.6.2 If you hold or use a person’s personal data to fulfil a contract or because you have their consent to process it, you **must** make sure that the personal data can be easily moved, copied or transmitted from one computer system to another if the person asks you to do this (whether this is to their own systems, or to the systems of another organisation or new data controllers).

#### Further guidance

- Information Commissioner’s Office: Right to data portability – for guidance on a person’s right to transfer data for their own purposes
- Information Commissioner’s Office: Right of access – for guidance on a person’s right to access their personal data held by an organisation



## 4. Processing donations

Clear policies and processes for dealing with donations and Gift Aid reduce risk and make sure that charities get all of the money they are entitled to. This section includes standards about handling different forms of payment to make sure donations are secure (this includes one-off payments and ongoing donation commitments). It also includes rules on Gift Aid.

### 4.1. Cash



*In this section, 'you' means a charitable institution or third-party fundraiser, unless we tell you otherwise.*

- 4.1.1 You must not leave unsecured cash unattended.
- 4.1.2 You must count cash in a secure place.
- 4.1.3 You must make sure that all cash you have collected is counted and recorded by two unrelated people, wherever possible.
- 4.1.4 You must make sure that cash donations are placed in a sealed container or collecting box. If you are collecting in Scotland or Northern Ireland, or in a licensing authority which follows the model regulations in England and Wales for street collections, you **must** do this.
- 4.1.5 You must make sure the promoter of the collection (for example, a charity's fundraising manager) and one other responsible person or an official of a bank are present when you examine and open collecting boxes for licensed collections in a public place. If the licensing authority is following the model regulations in England and Wales for street collections, you **must** do this.
- 4.1.6 For collections on private land, if it is not practical for you to open and count collecting boxes, you must have effective procedures and instructions for the person who owns or manages the site to count, record and bank or deliver the money in the boxes.
- 4.1.7 If you do not bank cash immediately, you must put it in a safe or other secure place.
- 4.1.8 You must bank cash as soon as possible. To help with this, you must have a procedure for banking donations, including who does it and when.
- 4.1.9 You must check that the cash you have banked matches your income summaries, as soon as possible. If possible, someone who is not involved in counting or cashing up the money must do this.

- 4.1.10 You must send the charitable institution (or institutions) the full amount taken from all collecting boxes without taking any expenses or fees, unless these have been agreed beforehand.
- 4.1.11 If you are a professional fundraiser or commercial participator, you (and people fundraising for you) **must not** take any money from cash you (or they) receive.
- 4.1.12 You **must** meet any extra rules local authorities set about making deductions from collections.

#### **Further standards for cash collections in Scotland**

- 4.1.13 In Scotland, for collections licensed by the local council which will be carried out using a collecting box, you **must** only accept donations by allowing the donor to put them in the collecting box. Or, if the collection can be carried out by sealed envelopes, the collector **must** only accept donations in sealed envelopes using the numbered envelopes you have issued to them. As a result, it is not usually possible to give receipts for donations.

4.1.14 If you receive cash in collection envelopes or collecting boxes as part of a public charitable collection, you **must** count and bank it in line with the Public Charitable Collections (Scotland) Regulations 1984, as amended.

#### **4.2. Tills**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

- 4.2.1 You must make sure that all money is put into the till immediately.
- 4.2.2 You must only give change from the till, never from your personal money.

#### **4.3. Floats**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

- 4.3.1 A person you have nominated must sign for your floats.
- 4.3.2 You must keep floats and any money made from sales separate from the cash handler's personal money.
- 4.3.3 If you use money from a float for petty-cash spending, you must record this separately and keep any receipts.

#### 4.4. Receipts

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

- 4.4.1 If you do not use a sealed collecting box, the collector must issue and sign a receipt for the donated amount.
- 4.4.2 If you are collecting on a private site, you must give the person who owns or manages the site a receipt if they ask for one. The receipt should include the address of the site, the box number, the date and the amount collected.

#### 4.5. Cheques

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

- 4.5.1 You must either bank cheques or send them to your fulfilment house (if you use one) as soon as possible.
- 4.5.2 If you are sending cheques to a fulfilment house or external organisation for processing, you must make sure the method of sending the cheque is appropriate to the value of the cheque.
- 4.5.3 You must not give change in return for cheques.

- 4.5.4 You must not issue a refund for a cheque donation until the cheque has cleared and the money has appeared in your organisation's account.

#### 4.6. Charity cheques and vouchers

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

Charity cheque and voucher accounts allow donors to make donations as a lump sum or regular amounts into an account which can then be used for making donations to registered charities (but not other charitable institutions). The agency managing the account will claim and add Gift Aid to the donation. The donor is given a book of vouchers or a 'chequebook' to donate this money to their preferred charities. On receiving the voucher or cheque, the charity receiving the donation contacts the agency and arranges for the donation to be transferred.

- 4.6.1 You **must not** reclaim tax on the donation (the amount of the charity cheque or voucher) if you are the charity receiving the donation, as the Gift Aid was added before you received it.
- 4.6.2 You must bank or cash in vouchers as soon as possible, ideally the next working day, unless the agency issuing the vouchers asks you to do otherwise.

#### 4.7. Card transactions

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

This section applies to transactions both where the donor is present and when they are not. The steps you need to take to make sure payments are secure will vary depending on the number of transactions that are made.

4.7.1 You must meet the Payment Card Industry Data Security Standards (PCI-DSS).

For more standards on processing data, see **section 3 Processing personal data (information)**.

4.7.2 You must use extra security measures such as Verified by Visa and 3D Securecode for online transactions if you have the resources for this.

4.7.3 If you are charged for transferring payments, you must record the total donation amount as income, and record the charges in your accounts as 'expenditure'.

#### 4.8. Direct debits

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

The procedures and rules to do with direct debits will vary depending on the bank you use. The Direct Debit Guarantee Scheme provides consistent standards and protection to customers.

4.8.1 If you have signed up to the Direct Debit Guarantee Scheme, you **must** meet its standards.

## 4.9. Gift Aid

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

Gift Aid allows registered charities to reclaim tax on donations made by UK taxpayers. This effectively increases the amount of the donation.

4.9.1 You **must** only claim Gift Aid for a donation if all of the Gift Aid conditions are met. One of these is that a donor's Gift Aid declaration **must** meet HMRC's guidance on Gift Aid.

4.9.2 If you want to make a tax relief claim under the Gift Aid Small Donations Scheme, you **must** only do so if all of the scheme's conditions are met.

### Further guidance

- HM Revenue & Customs:  
[Charities: detailed guidance notes on how the tax system operates](#) – Chapter 3: Gift Aid
- HM Revenue & Customs:  
[Charities: detailed guidance notes on how the tax system operates](#) – Chapter 8: The Gift Aid Small Donations Scheme

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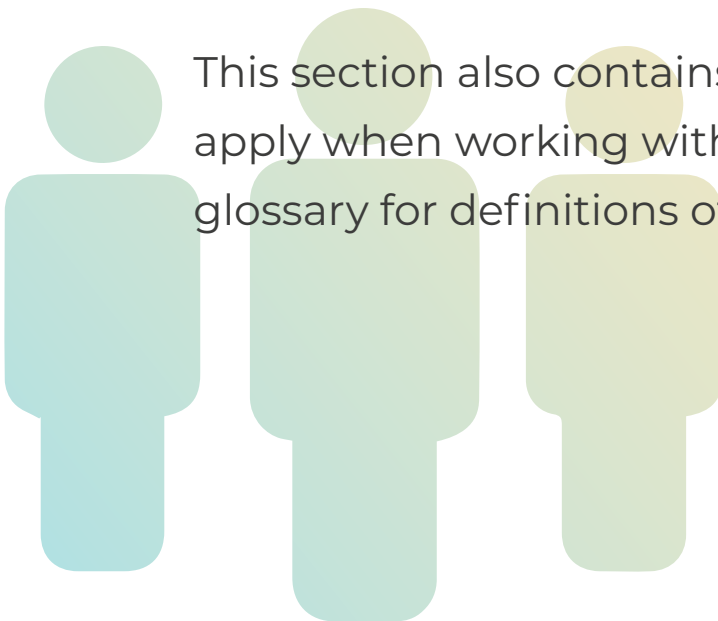
## Part 2:

# Standards which apply to working with others

The standards in this section will be relevant where an organisation works with others to carry out fundraising. This includes relationships between charitable institutions and:

- volunteers;
- professional fundraisers; or
- commercial participators and other commercial partners.

This section also contains specific standards that apply when working with children. Please see the glossary for definitions of the terms used.



## 5. Volunteers


Volunteers play an important part in fundraising and supporting charitable giving. This section contains standards on working with volunteer fundraisers, where their activity is known to your organisation.

The Charities Act 1992 and Charities and Trustee Investment (Scotland) Act 2005 give charitable institutions the right to apply for a court order to prevent unauthorised fundraising if:

- any person is using fundraising methods that the charitable institution objects to;
- the charitable institution believes that a person is not a fit and proper person to raise funds on their behalf; or
- the charitable institution does not want to be associated with a particular promotion.

Some 'in aid of' volunteers may be fundraising to raise their profile or to attract customers by associating themselves or their brand with your charity. If the 'in aid of' volunteer arrangement falls within the definition of a commercial participator relationship, there are legal obligations which you **must** meet (see **sections 7.2 to 7.4**).

### 5.1. Standards that apply to all volunteers

 *In this section, 'you' means a charitable institution.*

- 5.1.1 You must make sure that any guidance, information and support you give to volunteers is adequate and relevant to the type of relationship ('on behalf of' or 'in aid of') that the volunteer has with you.
- 5.1.2 If your charitable institution knows about a volunteer's fundraising, you must make sure that there are proper arrangements in place for money to be transferred to you quickly and efficiently.
- 5.1.3 You must not make any payments to volunteers, but you can refund their expenses.
- 5.1.4 You must take all reasonable steps to make sure that volunteers keep to standards on handling donations. For more standards on this, see **section 4 Processing donations**.

## 5.2. Specific considerations when working with ‘on behalf of’ volunteers

**i** *In this section, ‘you’ means a charitable institution.*

5.2.1 Where appropriate, you **must** check that ‘on behalf of’ volunteer fundraisers are suitable to act as responsible people on your behalf. You **must**:

- meet your legal duties on using the [Disclosure and Barring Service](#), [Disclosure Scotland](#) or [Access NI checks](#), and
- carry out due diligence to check if each volunteer is a ‘fit and proper person’ to carry out house-to-house collections.

There is no legal definition of ‘fit and proper person’. However, Cabinet Office guidance on national exemption orders for house-to-house collections highlights the need to consider ‘past convictions or current investigations’ concerning the volunteer as an example of how to check whether they are fit and proper.

5.2.2 You **must** store volunteers’ contact information and other personal data in a way that meets the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

For more standards on processing data, see **section 3 Processing personal data (information)**.

5.2.3 You must give any training and support that volunteers may need so they can carry out their role in a way that is legal, open, honest and respectful.

## 5.3. Specific considerations when working with ‘in aid of’ volunteers

**i** *In this section, ‘you’ means a charitable institution.*

5.3.1 If you are aware of their activity beforehand, you must tell ‘in aid of’ volunteers that:

- they must use the expression ‘in aid of’ your charitable institution when fundraising, to distinguish their fundraising from yours, and
- they are responsible for organising all aspects of their fundraising and that you will not accept any liability relating to their fundraising.



## 6. Fundraising involving children

It is important to take particular care when involving children in fundraising, whether as fundraisers or as donors. This section includes standards on minimum age restrictions that apply when fundraising, and standards to protect children and their data.

### 6.1. Responsibilities relating to fundraising involving children

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

There are some activities which children and young people cannot carry out. The age restriction depends on the activity and where it is carried out. These activities include:

- street and house-to-house collections;
- lotteries or raffles; and
- events involving alcohol.

- 6.1.1 You **must** keep to any relevant age limits set by law when organising fundraising activities.
- 6.1.2 You must make sure that your staff understand their responsibilities and what they must do in relation to activity organisers, the children taking part, and the parents or guardians of those children.

- 6.1.3 You must give the children or young people taking part, and their parents or guardians, guidance on how to carry out fundraising safely and legally.
- 6.1.4 You must not give children under 16 overall responsibility for handling money or responsibility for counting collected money.
- 6.1.5 You **must** use the Disclosure and Barring Service (in England and Wales), Disclosure Scotland (in Scotland) and Access NI (in Northern Ireland) to carry out checks on any adults working with children, if the law says you **must** do this.
- 6.1.6 You must only contact children on school premises if you have the approval of the head teacher or a member of the school's staff chosen by the head teacher, and you must follow any procedures you have agreed with them.
- 6.1.7 You must get permission before taking or publishing photographs of children. If the child is over 13 years old they can give this permission themselves. If they are under 13, you must get permission from their parent or guardian.

### **Further requirements for England and Wales**

6.1.8 You **must not** allow anyone under the age of 16 to carry out house-to-house collections, unless the collection is taking place in the City of London, in which case, you **must not** allow anyone under the age of 18 to take part. You **must not** allow anyone under 16 to carry out street collections, except in London where, if you have special permission, you can use street collectors aged 14 or over.

### **Further requirements for Scotland**

6.1.9 If a street collection qualifies as a public charitable collection, you **must not** allow children under 14 to take part, and **must not** allow children under 16 to carry out house-to-house collections.

### **Further requirements for Northern Ireland**

6.1.10 You **must not** allow anyone under the age of 16 to carry out street collections or house-to-house collections. The exception to this is if a house-to-house collection is taking place across Northern Ireland and you are a youth organisation which the Department for Communities has approved for carrying out the collection under an exemption order, in which case you can have collectors aged 12 and over.

For more standards on processing data, see **section 3 Processing personal data (information)**.

## 6.2. Children and data protection

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

The law does not set a minimum age for when a child can give an organisation consent to process their data. However, as a guide for developing your policies on consent, you should consider that Article 8 of the GDPR says that a child must be at least 13 years old to give consent for an organisation to process their personal data in order to provide 'information society services' (in other words, a service a person asks an organisation to provide electronically, at a distance, in exchange for a fee).

For more standards on processing data, see section **3 Processing personal data (information)**.

- 6.2.1 If you rely on consent as the lawful basis for processing a child's data, you **must** get their parent's or guardian's consent for this until the child is able to give informed consent themselves.
- 6.2.2 You must not share any data you collect from anyone aged under 14 without consent from their parent or guardian, unless you have to do so by law (for example, during a police investigation).

## 7. Professional fundraisers, commercial participators and partners

When charitable institutions work with external organisations to fundraise, it is important that there is a common understanding of what this arrangement means in practice. This section includes what needs to be set out as part of fundraising agreements to make sure expectations are clear and what paid third-party fundraisers must say to donors when fundraising on behalf of a charitable institution.

Please note: In **Northern Ireland** there is no legislation relating to professional fundraisers or commercial participators (however, charitable institutions fundraising in Northern Ireland may decide to follow the legal requirements of England and Wales and Scotland as good practice).

### 7.1. Due diligence and conflicts of interest

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

- 7.1.1 Before entering into an agreement with a professional fundraiser or a commercial partner you must carry out appropriate checks on them (including on their financial standing and reputation) to make sure you can be confident that they are able to do what you expect them to do and that your relationship with them will not damage your reputation. This is especially important when working with organisations that are not based in the UK.
- 7.1.2 You and the third-party fundraisers and commercial partners must give each other full details of any possible, perceived or actual conflicts of interest that you and they are aware of or become aware of, either:
- at the due diligence stage, or
  - while you are working together.

- 7.1.3 If your third-party fundraiser has or may have a conflict of interest, you must not enter an agreement with them without the permission of the person or organisation whose interests conflict with theirs. If there is a significant conflict of interests, both parties must consider whether it is appropriate for the relationship to continue.
- 7.1.4 Third-party fundraisers must only claim that they have experience, qualifications and achievements if they have proof to back this up.
- 7.1.5 If you are placing fundraising content on the website of a third-party fundraiser or commercial partner, you must apply the same care as you would when placing it on your own website.

For more standards on digital platforms, see **section 10 Digital**.

## 7.2. Contracts and agreements

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

- 7.2.1 You must have a written agreement in place with any paid third-party fundraiser or commercial partner you work with to fundraise. In England, Wales and Scotland, you **must** do this if the paid third-party fundraiser or commercial partner you work with falls within the legal definition of a 'professional fundraiser' or 'commercial participator'.

Please see below for more details about what 'professional fundraiser' or 'commercial participator' agreements and contracts **must** contain.

- 7.2.2 Regulations on contracts can differ between England and Wales, Scotland, and Northern Ireland. You **must** meet the relevant regulations in each area.
- 7.2.3 You **must** make sure that any third party you work with keeps to the requirements of data protection law and the Privacy and Electronic Communications (EC Directive) Regulations 2003, as set out in the code, including the requirements of the Telephone Preference Service, no matter where the third party is based or operating.

7.2.4 You must have review procedures in the agreement. You must consider the third-party fundraiser's performance at these reviews and decide whether further action is appropriate (such as reviewing the agreement or activating any penalty clauses that may be part of the agreement). In England and Wales, you **must** meet this standard.

For more standards on reasonable monitoring arrangements as part of a contract or agreement, see **section 7.3 Monitoring that fundraisers are meeting the code**.

7.2.5 If the third-party fundraiser will be selling goods or services, there must be a written agreement governing the relationship between the charitable institution and the third-party fundraiser (even if this is not strictly needed under the relevant acts).

- Before the agreement begins, it must be considered, negotiated and agreed by authorised representatives of both the charitable institution and the third-party fundraiser.
- The charitable institution and the third-party fundraiser must approve and understand the agreement.

7.2.6 Any change to the contract terms must be in line with the term in the agreement which says how any change should take effect.

### **Agreements with professional fundraisers**

Please note: In **Northern Ireland** there is no legislation relating to professional fundraisers (however, charitable institutions fundraising in Northern Ireland may decide to follow the legal requirements of England and Wales and Scotland as good practice).

7.2.7 Before asking for money or other property, a professional fundraiser **must** have a written agreement in place with you. The agreement **must** be signed by or on behalf of both you and the professional fundraiser.

- 7.2.8 The agreement **must** give:
- the names and addresses of all the people and organisations the agreement is between (the parties to the agreement);
  - the date on which each party signed the agreement and the length of the agreement;
  - any terms which relate to ending the agreement early or making changes to it;
  - a statement of the main aims of the agreement and how the parties will achieve those aims;
  - terms for paying fees and expenses to the professional fundraiser; and
  - if more than one charity is involved, details of how the funds raised will be shared between them.

- details of how the commercial organisation will protect the public from unreasonable intrusion on a person's privacy, unreasonably persistent approaches or undue pressure to donate; and
- details of how the charitable institution will monitor the professional fundraiser to make sure it is keeping to the agreement, as set out in section 59 of the Charities Act 1992 as amended.

This may include the monitoring measures set out in **7.3 Monitoring that fundraisers are meeting the code**. The terms of the agreement should allow you to read and, where necessary, review any relevant policies and procedures that the professional fundraiser has in place which are relevant to protecting the public. This may include policies on people in vulnerable circumstances, handling complaints and whistleblowing, training materials, and the staff code of conduct.

### **England and Wales**

7.2.9 Fundraising agreements between charitable institutions established in England and Wales and professional fundraisers **must** also include:

- details of any voluntary regulatory fundraising scheme or standard that the professional fundraiser has agreed to keep to;

- 7.2.10 If a third-party fundraiser falls within the definition of 'professional fundraiser', the agreement must include details of the solicitation statement they need to give and the fees and expenses which the professional fundraiser will be paid.
- 7.2.11 Agreements with third-party fundraisers must include clear and realistic expectations of the activities to be carried out, the budget, resources, timings and the possible outcomes.
- 7.2.12 You must agree all procedures with professional fundraisers before the fundraising takes place, including procedures for processing donors' details and producing and using fundraising materials.
- 7.2.13 You must make sure it is clear who owns the copyright of all materials and databases connected with the fundraising activity, before carrying out the activity.
- 7.2.14 You must give professional fundraisers the information they need about your charitable institution's aims, and clear guidelines about their behaviour and the different tax reliefs that apply.

### **Agreements with commercial participators**

Please note: In **Northern Ireland** there is no legislation relating to commercial participators (however, charitable institutions fundraising in Northern Ireland may decide to follow the legal requirements of England and Wales and Scotland as good practice).

- 7.2.15 If an arrangement with a commercial partner falls within the definition of a 'commercial participator', the commercial participator **must** have a written agreement in place with the charitable institution it proposes to raise funds for, and certain information **must** be included in this.
- 7.2.16 It is against the law for a commercial participator to claim, as part of a promotional venture, that they will give money to a charitable institution, unless this claim is in line with a written agreement they have in place with the charitable institution they are raising funds for. The agreement **must** be in writing and signed by or on behalf of both the commercial participator and the charitable institution they are raising funds for.



7.2.17 The agreement **must** give:

- the names and addresses of all the parties to the agreement;
- the date on which each party signed the agreement and the length of the agreement;
- any terms which relate to ending the agreement early or making changes to it;
- a statement of the main aims of the agreement and how the parties will achieve those aims;
- if more than one charitable institution is involved, details of how the funds raised will be shared between them;
- details of what proportion of the price of the goods or services will be given to you or how much money the commercial participator will donate in connection with selling or supplying the goods or services; and
- how much the commercial participator will receive as payment or for expenses.

### Further guidance

- Cabinet Office: [Guidance on Part 2 of the Charities Act 1992](#) – for guidance on legal requirements for professional fundraisers and commercial participators
- The Fundraising Regulator: [The Charities \(Protection and Social Investment\) Act 2016](#) – for guidance on section 13 of the Act

### 7.3. Monitoring that fundraisers are meeting the code

**i** *In this section, ‘you’ means a charitable institution, unless we tell you otherwise.*

7.3.1 You must make sure that any paid third-party fundraisers or commercial partners you work with to fundraise keep to the code.

7.3.2 You must make all reasonable efforts to monitor whether the paid third-party fundraisers or commercial partners are keeping to the agreement you have with them (including the conditions of the contract which relate to keeping to the code).

For the purpose of this code, making all reasonable efforts means that you must carry out effective and proportionate monitoring. This may include:

- making sure your values are reflected in:
  - the policies, performance objectives and indicators of the paid third-party fundraiser or commercial partner; and
  - the incentives of the paid third-party fundraiser or commercial partner, where these apply;
- choosing a named person with lead responsibility for monitoring that the requirements of the law and code are being met;
- developing clear reporting requirements with the other organisation and regularly reviewing their progress against agreed targets relating to performance, quality assurance and their responsibilities under the law and the code;
- defining how monitoring will be carried out, including how often, based on an assessment of the risk posed by the fundraising activity;
- approving and regularly reviewing training on keeping to the code, including frequently watching this training being delivered;
- authorising content and materials for training;

- regularly carrying out (and recording the results of) call monitoring, mystery shopping, site visits or shadowing with the other organisation's fundraisers;
- setting out a clear policy for handling complaints and feedback, including the time frames, the procedure for making a complaint internally and taking a complaint further, and the procedure for transferring information between your charitable institution and the other organisation;
- setting out a clear internal procedure for members of staff and volunteers to report any concerns they have about their organisation's fundraising practice; and
- agreeing an action plan with the other organisation to deal with any concerns that are identified.

#### **Further guidance**

- Charity Commission for England and Wales: [CC26 guidance on charities and managing risk](#)
- Institute of Fundraising: [Successful Partnerships for sustainable fundraising](#) – for guidance on monitoring arrangements

### **Further requirements for England and Wales**

- 7.3.3 A professional fundraiser or commercial participator who has an agreement with you **must**, when asked, allow you to inspect their books, documents and records relating to your charitable institution.
- 7.3.4 A professional fundraiser or commercial participator **must** pass on funds to you as soon as reasonably possible, and in any case within 28 days, unless they have a reasonable excuse.

### **Further requirements for Scotland**

- 7.3.5 If a Scottish charity has an agreement covering the activities of a commercial partner operating in England and Wales (or if an English or Welsh charity has an agreement covering the activities of a commercial partner operating in Scotland), it **must** make sure that the contract meets the legal requirements of the country where the fundraising will be carried out.

- 7.3.6 In Scotland, if the contract is with a professional fundraiser or commercial participator, it **must** explain how the contract can be changed. It **must** include conditions saying that the change needs to be in writing and which prevent one party alone from making an unfavourable change.

- 7.3.7 A professional fundraiser or commercial participator **must** pass on funds to you in line with the Charities and Benevolent Fundraising (Scotland) Regulations 2009 regulations. In Scotland, the funds **must** be passed on as soon as reasonably possible, and in any case within 28 days of receiving them. The law in Scotland does not allow you or the professional fundraiser or commercial participator to agree otherwise, and this time frame cannot be extended even if the fundraiser has a reasonable excuse for not giving you the funds on time.

#### 7.4. Solicitation (disclosure) statements for paid third-party fundraisers and commercial participators

**i** *In this section, 'you' means a charitable institution unless we tell you otherwise.*

7.4.1 Professional fundraisers and commercial participators must make a solicitation statement when asking for money or other property or saying that money from a commercial promotional venture will be paid to a charitable institution or used for charitable, philanthropic or benevolent purposes.

Please note: In **Northern Ireland** there is no legislation relating to professional fundraisers or commercial participators (however, charitable institutions fundraising in Northern Ireland may decide to follow the legal requirements of England and Wales and Scotland as good practice).

#### England and Wales

##### Professional fundraisers

7.4.2 Professional fundraisers **must** make a solicitation statement every time they ask for money or other property on your behalf or for charitable, philanthropic or benevolent purposes. This is the case even if the money is not a pure donation but is given in return for something.

7.4.3 The fundraiser must make the solicitation statement either before the donor gives any money or before the fundraiser asks for any financial details relating to the transaction (whichever is sooner).

7.4.4 Professional fundraisers **must** give:

- the name of the charitable institution they are calling on behalf of;
- if there is more than one charitable institution, details of the proportions in which the funds will be shared between them; and
- how their payment (including any payment-in-kind (for example, gift vouchers) in connection with the appeal is to be calculated and the amount of that payment (or, if they don't know the actual amount, an estimate of the amount calculated as accurately as possible).

Employees of a professional fundraiser would have to provide a statement about the payment their employer will receive in connection with the appeal, not the payment they personally will receive from the professional fundraiser (their employer).

Failing to make the correct solicitation statement is a criminal offence. The Cabinet Office published '[Charitable Fundraising: Guidance on Part 2 of the Charities Act 1992 \(2008\)](#)' which includes example wording of statements. For more detailed guidance, you should get professional advice.

7.4.5 In the case of fundraising where the fundraiser asks for a donation verbally but the person they are asking is not present (such as telephone fundraising), the professional fundraiser **must** make the appropriate statement during the conversation. Also, within seven days of the donor making any payment of £100 or more, the professional fundraiser **must** give them a written statement containing the solicitation statement and details of their right to a refund or to cancel the payment.

7.4.6 A professional fundraiser **must** keep to specific requirements relating to the information they must share in connection with television, radio and telephone appeals, including donors' rights to cancel a donation and receive a refund.

### **Commercial participators**

7.4.7 Commercial participators **must** make a solicitation statement whenever (and wherever) it is stated or implied in the course of a commercial promotional venture that money will be paid to one or more charitable institutions or used for charitable, philanthropic or benevolent purposes.

7.4.8 The solicitation statement **must** give:

- the name of the charitable institution or institutions;
- if there is more than one charitable institution, details of how much of the funds will be shared between them; and
- the sum (or, if it is not possible to calculate accurately beforehand, the amount believed to be as accurate as possible) of whichever of the following apply.
  - The amount of the cost of the goods and services that will be given to or used for the benefit of the charitable institution or institutions
  - The amount of any other proceeds of the promotion that will be given to or used for the benefit of the charitable institution or institutions

- The amount of the donations made in connection with the sale or supply of goods and services that will be given to or used for the benefit of the charitable institution or institutions.

7.4.9 In the case of fundraising by commercial participators, where a commercial participator asks for donations verbally but the person they are asking is not present, the commercial participator **must** make the appropriate solicitation statement during the conversation. Also, within seven days of the donor making any payment of £100 or more, the commercial participator **must** give them a written statement containing the solicitation statement and details of their right to a refund or to cancel the payment.

### **Scotland**

7.4.10 In Scotland, the standards on solicitation statements apply to and **must** be followed by professional fundraisers asking for donations, commercial participators making representations and benevolent fundraisers (other than volunteers) carrying out benevolent fundraising. See the glossary for a definition of benevolent organisation and benevolent fundraising in the context of Scottish law.

7.4.11 Professional fundraisers, commercial participators and benevolent fundraisers (other than volunteers) **must**:

- give the name of the benevolent organisation which will benefit;
- if there is more than one benevolent organisation, give details of how the funds raised will be shared between them;
- if the funds are for general charitable, benevolent or philanthropic purposes (rather than for a particular benevolent organisation), give details of how they will decide how to distribute the funds; and
- say in writing if they are being paid (unless they are a benevolent fundraiser and an employee or agent of the benevolent organisation concerned or a company connected to it, and are carrying out the fundraising).

7.4.12 Professional fundraisers and commercial participators must also keep to the following extra standards.

- If you make the solicitation statement verbally (but not by speaking directly to and in the presence of the person it is addressed to) or in the course of a radio or television programme, you **must** explain the donor's right to a refund or to cancel the agreement under the Charities and Benevolent Fundraising (Scotland) Regulations 2009.
- If you are being paid for the activity, you must say how your payment will be decided and state:
  - the amount (or the estimated amount) you will be paid as a professional fundraiser; or
  - the amount (or the estimated amount) of the money made from sales or from the promotional venture that you, as a commercial participator, will use for the benevolent organisation or purpose, or the amount of the donation (or donations) that will be made.

- If you provide the solicitation statement about your pay verbally, you **must**:
  - if you are making the statement in person, tell any person making a payment that you have the information on your pay available in writing if they want to see it; or
  - if you are not making the statement in person, tell any person making a payment that you have the information on your pay available in writing and will provide it if they ask for it.

It is a criminal offence for a professional fundraiser or commercial participator to fail to keep to any of these conditions, and the trustees of a charity may have broken their duty of care if they do not make statements where appropriate. You can get more information and guidance from the Office of the Scottish Charity Regulator or you should ask for professional advice.

## 7.5. Fees and payment

**i** *In this section, 'you' means a charitable institution unless we tell you otherwise.*

The following standards apply as well as the general standards in **section 2.5 Paying fundraisers.**

- 7.5.1 Third-party fundraisers who do not fall within the legal definition of a professional fundraiser must state the actual amount and the way the payment is calculated in any proposal or agreement and make completely clear all fees, expenses and other associated costs, how their fees will be calculated and the timescale for payments.
- 7.5.2 If the agreement allows payment levels to vary, this must be clearly justified in agreements by referring to the particular circumstances in which different payment levels may apply. If this applies, the agreement must include terms which allow you and the third-party fundraiser to end the agreement before their pay changes.

## 7.6. Confidentiality

**i** *In this section, 'you' means a charitable institution unless we tell you otherwise.*

- 7.6.1 Third-party fundraisers **must not** share any confidential information they get from you unless that information is already available to the public or they are allowed to share the information by law.
- 7.6.2 The written agreement between you and the third-party fundraiser must include terms defining what is considered confidential information.



## 7.7. Company law and tax

**i** *In this section, 'you' means a charitable institution unless we tell you otherwise.*

If you are also a company, you **must** also meet the relevant company law requirements.

7.7.1 You must understand how your fundraising activities could affect the tax and VAT that your organisation has to pay (if at all) and make sure you pay the correct amount.

For more standards on reasonable monitoring arrangements as part of a contract or agreement, see **section 9.2 References in documents**.

### Further guidance

- Charity Commission for England and Wales: [The Companies Act 2006: guidance for charities](#)

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# **Part 3:**

## **Standards which apply to specific fundraising methods**

This section covers collections of money or other property (including goods and the financial details of donors who want to make regular donations). You should identify the methods you use to fundraise and meet the standards in the relevant sections. You should read these standards alongside the standards in parts 1 and 2 of the code.



## 8. Collecting money or other property

This section covers collections of money or other property (including goods and regular gifts) for charitable institutions, whether carried out on the street, house-to-house or on private sites. This includes secure collection procedures and standards to make sure you respect local people and places. If you plan to carry out charitable collections on public or private sites, you need to be sensitive to the communities you are likely to come into contact with and any permission that you may need to do so.

The law on collecting money or other property varies according to the type and location of the collection. In most cases, for collections on public land you will need a licence or permission to collect from the relevant local authority (or in Northern Ireland, the Police Service of Northern Ireland). On private land, you will need permission from the person responsible for the site.

The controls on public collections apply to collections for charitable purposes, and include collections for benevolent and philanthropic purposes.

You can find further information on the law as it applies to collections: in England and Wales in the Institute of Fundraising's Fundraising in a public place guidance, in Scotland in the Scottish Charity Regulator's (OSCR's) Public Collections and exemptions guidance and in Northern Ireland in the Charity Commission for Northern Ireland's Fundraising for Charities guidance.

### 8.1. Behaviour when collecting money or other property

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

8.1.1 While fundraising, you must not:

- act in any way that might reasonably cause members of the public to be or become startled or anxious;
- act dishonestly or manipulatively, or deliberately try to make a potential donor feel guilty; or
- act in any other way that a reasonable person might consider would damage the charitable institution's reputation. This includes:
  - smoking or drinking alcohol while wearing clothing that contains a charitable institution's branding;

- taking or being under the influence of illegal drugs;
- lewd or aggressive behaviour, including swearing, while wearing clothing that contains a charitable institution's branding;
- putting undue pressure on members of the public to donate;
- exploiting your position for personal gain (for example, asking for a job, asking someone for a date, or asking for a discount on goods or services); or
- any other behaviour that harms the reputation of the fundraising profession or the charitable institution you are representing.

8.1.2 You must avoid causing an obstruction, congestion and nuisance to the public. You must not deliberately block the path of members of the public.

8.1.3 You must treat the locations you are working at or visiting with respect.

8.1.4 You must not suggest to any member of the public that the conversation you are attempting to start is not about money or that you are 'not fundraising'.

8.1.5 When asking for a regular gift, you must not suggest to any member of the public that it is 'without commitment'.


8.1.6 Unless this is authorised under an agreement with a private site, you must not approach members of the public who are:

- seated, unless the seating is part of a charitable institution's promotional stand; or
- in queues, unless the queue is directly related to the fundraising activity.

8.1.7 You must not knowingly approach people who are carrying out official duties, such as uniformed officials while they are on duty or people who are clearly working.

8.1.8 You must not obstruct, interfere with or disrespect members of staff from local businesses.

## **8.2. Licences and permission**

 ***In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.***

8.2.1 If you are a charitable institution collecting on public land, you **must** get a licence or permit from the relevant authority to collect in that area, unless the relevant authority does not require you to hold a licence for your activity.

For more standards on exemptions, see **section 8.3 Exemptions**.

8.2.2 If you are a charitable institution, you **must** apply for licences in good time before the collection is due to take place.

- In Scotland, unless the relevant authority does not require you to hold a licence, you **must** apply for a licence in writing at least one month before your collection (or within any other period the local authority decides).
- In Northern Ireland, for street collections you **must** apply for a licence in writing before the first day of the month before the month in which the collection will take place.

8.2.3 You **must** carry out all collections in line with the terms of the relevant permit or licence. You must also make sure that:

- you carry out due diligence to check that a collector is a fit and proper person to collect;
- collectors are at least the minimum age allowed to fundraise in the relevant country and that they meet the obligations they have by law;

- you provide collectors with any official materials or authorisation needed under a licence or permit, such as written authorisation, a certificate of authority, an identity badge, collecting boxes or receipt books;
- you meet any other legal requirements relating to official materials or authorisation; and
- if required (for example, by the person issuing the permit), you are able to provide full details of all collectors in a certain area, including their names, addresses and phone numbers, the precise area to be covered and the exact period during which the collector is authorised to collect.

8.2.4 If you are a collector, you **must** meet any legal requirements relating to collecting boxes, certificates of authority and badges.

8.2.5 If you are a collector, you **must** only approach people in areas and during operating hours allowed under agreements, licences and permission (unless you agree to a follow-up meeting with a person outside these areas and times).

8.2.6 You must make sure that materials include contact details for the charitable institution and the collector, if different.

8.2.7 You must make sure that people and, where possible their vehicles, can be clearly identified as representing your charitable institution.

8.2.8 You must record the issuing and return of all materials connected with the collection.

- In Scotland, the organiser of a collection **must** record the name and address of each collector as well as the number of collecting envelopes issued to them, or the identification number marked on the collecting box given to each collector.

### 8.3. Exemptions

***i** In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

8.3.1 If you are a charitable institution that:

- has a [national exemption order](#) in England and Wales, or an [exemption order](#) in Northern Ireland which means you do not need a licence for house-to-house collections in the relevant country; or
- is an [exempt promoter](#) in Scotland, which means you do not need a licence for public charitable collections in that country;

you **must** meet the conditions of that exemption.

#### Further guidance

- In England and Wales, from the Department for Digital, Culture, Media and Sport: [National exemption order scheme](#)
- In Scotland, from the Scottish Charity Regulator (OSCR): [Public collections and exempt promoters](#)
- In Northern Ireland, from the Department for Communities: [House to house charitable collections – exemption orders](#)

### 8.4. Further standards that apply to particular locations and activities

***i** In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

#### House-to-house collections

8.4.1 You **must not** harass any person or ignore a request to leave or not to return.

8.4.2 You must not cold-call in an area where a 'no cold-calling zone' has been created legitimately which means that charitable collections are not allowed.

8.4.3 You must not knock on the door of any property that displays a sticker or sign which includes the words 'no cold-calling', 'no cold-callers', 'no charities', 'no charity canvassers' or 'no charity fundraisers'.

- 8.4.4 You must only knock on the front door or main entrance of a property (usually the door that is closest to or most directly accessible from a street), unless a resident asks you to do otherwise.
- 8.4.5 If a building contains several properties and you need permission from a resident in order to access the building, you must not use entry permission given by one resident to then call on other properties in the building. You must get individual permission to enter the building from the resident of every property you visit in the building.
- 8.4.6 You must take extra care when visiting properties after dark. If you are visiting isolated places, you must consider whether the visit could cause anxiety to residents before approaching a property.
- 8.4.7 You must not enter a property unless you have the permission of a resident of the property (or, if the property is occupied by a business, the the person in charge at the property on the day of this visit).
- 8.4.8 You must not stop residents from shutting a door of their property (for example, by putting your foot in the doorway).
- 8.4.9 You must not deliver charity collection bags to a property that displays a sticker or sign which includes the words 'no charity bags', 'no clothing bags' or any other words which clearly show that the householder does not want to donate in this way.
- 8.4.10 Alongside any time restrictions for collections that are set out in the licence, you must not fundraise before 9am Monday to Saturday or before 10am on Sundays and public holidays, or after 9pm on any day or date. If you need to call again at a property (two-step collections) the second visit must not take place outside of these times, unless the person at the property asks you to make the collection at a certain time.
- 8.4.11 You must not approach a property in groups of more than two at a time. This includes trainee fundraisers.

8.4.12 If you are collecting regular gifts house-to-house (face-to-face fundraising), you must wear an ID badge, that:

- includes your identity as a fundraiser, who you work for and a phone number for the relevant charitable institution or third-party fundraiser;
- is clearly displayed and has not been tampered with;
- is in the form of a badge fixed to the upper front part of your body;
- is at least the size of a credit card;
- is signed or authorised in some other way (for example, with a company seal or stamp) by the agency you work for or the charity you are collecting on behalf of (or both); and
- is accessible for people with sight difficulties (for example, the information on the ID badge could be available in large print).

### **Collecting regular gifts (face-to-face fundraising) on the street**

8.4.13 If you do not need a licence or permit, you must meet IoF site management agreements that are in place with the local authority for regular gift (face-to-face) fundraising on the street.

8.4.14 You must be identifiable by the public from a distance of at least five metres. Charity branded clothing:

- must be visible and identifiable;
- must not be tied around your waist or covered by non-charity branded clothing or other property, or be in any way obscured; and
- must be clean and in good condition to make sure the brand can be seen and to protect its reputation.

#### **Further guidance**

Institute of Fundraising: No cold calling zones and stickers.



8.4.15 You must wear an ID badge, that:

- includes your identity as a fundraiser, who you work for and a phone number for the relevant charitable institution or third-party fundraiser;
- is clearly displayed and has not been tampered with;
- is in the form of a badge fixed to the upper front part of your body;
- is at least the size of a credit card;
- is signed or authorised in some other way (for example, with a company seal or stamp) by the employing agency or the charity you are collecting on behalf of (or both); and
- is accessible for people with sight difficulties (for example, the information on the ID badge could be available in large print).

8.4.16 You must not leave bags unattended on any public road or right of way. A team member must always stay within three metres of the bags and be able to see a 'team bag' (if one is used).

8.4.17 You must not begin collecting before 9am Monday to Saturday or 10am on Sundays and public holidays, or continue after 7pm on any day. (If different times are stated in an loF site management agreement, you must keep to the times in the agreement.)

8.4.18 You must not position yourself within three metres of a:

- shop entrance;
- pedestrian crossing;
- cashpoint machine;
- station entrance;
- market stall; or
- street trader, vendor or busker.

8.4.19 If you have approached a member of the public, you must meet the 'three-step' rule.

- You must not take more than three steps alongside the person or to follow them, even if they ask you to.
- If the member of the public has not come to a stop within the three steps allowed, you must end your attempt to talk to them.

### **Collections on private land and bookable private sites**

8.4.20 You **must** have permission from the property owner or manager to collect and **must** keep to the dates, times and areas allowed for collecting.

8.4.21 You must record all bookings and include the full name of the person you made the booking with, the dates that were agreed and the type of activity that was agreed. You must keep these records for at least 28 days.

**Collecting regular gifts (face-to-face fundraising) on bookable private sites**

8.4.22 Whenever possible, before beginning work you must introduce yourself to the relevant member of staff responsible for the private site.

8.4.23 If the venue or location changes, you must tell the person responsible for your operations before beginning work.

8.4.24 You must not work outside the boundaries of the private site as explained by the site owner and, in any case, you must work within sight of the promotional stand, if there is one.

8.4.25 When working at high-street locations:

- you must work within one metre of the promotional stand (or equivalent) which must be no more than one metre away from the shopfront, and
- your position and the stand must not affect other businesses.

If this standard contradicts or conflicts with any conditions included in an agreement with the relevant site owner or manager, the site agreement will apply.

8.4.26 You must wear charity-branded clothing if you do not have a promotional stand. Charity branded clothing:

- must be visible and identifiable;
- must not be tied around your waist or covered by non-charity branded clothing or other property, or be in any way obscured; and
- must be clean and in good condition to make sure the brand can be seen and to protect its reputation.

8.4.27 You must wear an ID badge, that:

- includes your identity as a fundraiser, who you work for and a phone number for the relevant charitable institution or third-party fundraiser;
- is clearly displayed and has not been tampered with;
- is in the form of a badge fixed to the upper front part of your body;
- is at least the size of a credit card;
- is signed or authorised in some other way (for example, with a company seal or stamp) by the employing agency or the charity you are collecting on behalf of (or both); and
- is accessible for people with sight difficulties (for example, the information on the ID badge could be available in large print).

8.4.28 If you have approached a member of the public, you must meet the ‘three-step’ rule.

- You must not take more than three steps alongside the person or to follow them, even if they ask you to.
- If the member of the public has not come to a stop within the three steps allowed, you must end your attempt to talk to them.

If you have successfully started a conversation with a person, you can take more than three steps to escort them to a promotional stand, or to a different part of a promotional stand.

## 8.5. Static collections



***In this section, ‘you’ means a charitable institution or third-party fundraiser unless we tell you otherwise.***

Static collections involve the use of collecting boxes which stay in one place – either on the floor or on counters in places such as shops, pubs, hotels, hospitals and reception areas.

If another organisation manages static collecting boxes on your behalf and they receive a payment or other benefit for this activity, it is important that you and they are aware of any responsibilities they may have under Part II of the Charities Act 1992 or Part 2 of the Charities and Trustee Investment (Scotland) Act 2005.

8.5.1 If you are the organiser of the collection, you **must** get the permission of the site owner or those with authority to give you permission to hold a static collection on the site. The permission must be in writing.

8.5.2 If you are the organiser of the collection, you must give a letter, certificate of authority or badge to anyone you have authorised to collect on your behalf. The letter, certificate or badge should contain information that identifies them as a collector and identifies any organisations carrying out or benefiting from the collection. The specific information that must be included for different categories of collector is as follows.

- For collectors who are directly employed by the charitable institution benefiting or who are acting as ‘on behalf of’ volunteers:
  - the collector’s name;
  - the name and contact details of the charitable institution benefiting from the collection; and
  - the name of the organiser (if different to the collector or charitable institution benefiting from the collection).

- For collectors working for a third-party fundraiser:
  - the collector's name;
  - the name and contact details of the third-party fundraiser; and
  - the name and contact details of the charitable institution benefiting from the collection.
- For collectors who are 'in aid of' volunteers if the charitable institution knows about the collection and has approved it:
  - the collector's name;
  - the contact details of the organiser;
  - the name of the charitable institution benefiting from the collection; and
  - the name of the organiser if this is different to the collector.

8.5.3 If you are the collector, you must have a letter, certificate of authority or badge as described above.

8.5.4 If you are the collector, you must show your certificate of authority to the site owner or those with authority to grant permission to hold a static collection on the premises.


8.5.5 If you are the collector, you must make it clear to the site owner or those holding a static collection on the premises that if a box is lost or stolen, or if they want to end the collection, they need to contact you (preferably in writing).

## 9. Fundraising communications and advertisements

Charitable institutions tell people about their cause in different ways. It's important that your communications are appropriate to your audience and provide clear information so that donors can make an informed decision. This section covers standards related to marketing your campaign. It also includes standards for fundraising over the phone and by post (for emails and messages to mobile devices see **section 10 Digital**).

For more standards relating to marketing communications to individuals, see **section 3 Processing personal data (information)**.

### 9.1. General standards

 *In this section, 'you' means a charitable institution or third-party fundraiser.*

9.1.1 You must meet the Committee of Advertising Practice Code (CAP) and Broadcasting Committee of Advertising Practice (BCAP) and make sure all advertisements are legal, decent, honest and truthful.

9.1.2 You must be able to show that you have taken all reasonable steps to make sure that communications are suitable for the people they are aimed at.

- 9.1.3 Your marketing communications must not contain anything that is likely to cause serious or widespread offence. You must take particular care to avoid causing offence on the grounds of race, age, religion, sex, sexual orientation or disability. This will vary according to the context, type of communication, audience, product and commonly accepted standards of decency at the time of the communication.
- 9.1.4 Your marketing communications must not contain anything that is likely to cause fear or distress without a justifiable reason. If you can justify it, the fear or distress likely to be caused must not be excessive.
- 9.1.5 You must not use a claim or image that some people may find shocking merely to attract attention. If you use images that some people may find shocking, you should give warnings about this material.
- 9.1.6 You **must** make sure literature includes all information that you have to include by law, for example, registered charity status or number, full company name and registered office if this applies.
- 9.1.7 If you are fundraising in partnership with one or more charitable institutions, you must state how the money will be split between the organisations.
- 9.1.8 If you change any of the details in case studies or use real examples to inspire a case study, you must make this clear and you must be able to prove that the case study is representative of a real situation.
- 9.1.9 You must be able to justify how often you contact people, balancing the need to communicate with not overwhelming or bombarding people.
- 9.1.10 You **must** meet trademark and copyright law and make sure that you get permission to use images, logos and so on from the people or organisations who hold the rights to these.

For more standards on the information you need to include, see **section 9.2 References in documents.**

#### **Further requirements for England**

- 9.1.11 You **must** make sure that public advertisements for an event meet the Town and Country Planning Act 1990 (as amended), the Control of Advertisements Regulations 2007 (as amended) issued under it, or the Highways Act 1980.

### Further requirements for Scotland

9.1.12 You **must** make sure that public advertisements meet the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, as amended in 1992.

### Further requirements for Northern Ireland

9.1.13 You **must** make sure that public advertisements meet the Planning (Control of Advertisements) Regulations Northern Ireland 2015.

## 9.2. References in documents



*In this section, 'you' means a charitable institution or third-party fundraiser, unless we tell you otherwise.*

### General standards

Charitable institutions that are registered companies **must** meet the requirements under the Companies (Trading Disclosures) Regulations 2008 as well as any charity law rules that apply in the country you are fundraising in.

- 9.2.1 You **must** make sure that your business letters, order forms and website state:
- your registered company's full name (even if elsewhere you also use an abbreviated or 'trading name');
  - your company number;
  - the place of registration of your company (for example, England and Wales or Scotland);
  - the address of your registered office (if more than one address is mentioned, it **must** be clear which is the registered office); and
  - that the charitable institution is a limited company if your name does not include the word 'Limited'.

If the names of your directors are included on your company letterhead (which is not compulsory), you **must** name all the directors.

- 9.2.2 You **must** also give your company's full registered name on all notices and other official publications, all cheques, bills of exchange, promissory notes (a signed document promising to pay a stated amount to a certain person on a stated date or when asked) and endorsements, all orders for money, goods or services, all invoices and other demands for payment, receipts and credit notes, all applications for licences to carry out a trade or activity, and all other types of business correspondence and documents.

### **Further requirements for England and Wales**

- 9.2.3 If you are a registered charity with a gross income of over £10,000 in the last financial year, you **must** state that your charity is registered on all fundraising notices, advertisements and documents issued by you or on your behalf.
- 9.2.4 If you are a registered company, you **must** include your company number, place of registration (for example, England and Wales) and the address of your registered office if the fundraising material takes the form of a business letter or is published on your website. As a registered company, you **must** give the name of the charity on all fundraising materials that are produced in any of the following forms.
- Business letters
  - Notices and other official publications
  - Bills of exchange, promissory notes, endorsements, cheques and orders for money or goods signed on behalf of the charity
  - Any documents relating to selling or buying an interest in land
  - Bills, invoices, receipts and letters of credit

- 9.2.5 If you are a registered company and your name does not include the word 'Limited', you **must** also include a statement that you are a limited company on all business correspondence.

### **Further requirements for Scotland**

- 9.2.6 If you are a charity registered in Scotland, you **must** meet the [Charities References in Documents \(Scotland\) Regulations 2007](#). If you are a Scottish Charitable Incorporated Organisation (SCIO), you **must** meet section 52 of the Charities and Trustee Investment (Scotland) Act 2005 and the Scottish Charitable Incorporated Organisations Regulations 2011 in relation to the statements you make.
- 9.2.7 If you are a charity registered in Scotland, you **must** give the following information in your documents.
- Your full name and any other name you commonly use.
  - Your Scottish charity number.
  - If your name does not include 'charity' or 'charitable', you must state that you are a charity.



9.2.8 You **must** state the above information in all business letters, emails, advertisements, notices, official publications, any document asking for money or other property for the charity, promissory notes, endorsements, orders for money or goods, bills, invoices, receipts, letters of credit, statutory accounts, educational or campaign documents, documents which create, transfer, vary or remove an interest in land, contracts and bills of exchange (except cheques), and on the home page of your website.

9.2.9 You **must** use the term 'charity', 'charitable body', 'registered charity', or 'charity registered in Scotland'. The terms 'Scottish charity' and 'registered Scottish charity' must only be used for charities established in Scotland or which are fully or mainly managed or controlled in Scotland.

9.2.10 If you are an SCIO, the information **must** include your full name and, if your name does not include your legal status, you **must** state that you are an SCIO. You must state your charity number and, when stating that you are an SCIO, you must write 'Scottish Charitable Incorporated Organisation' in full rather than using 'SCIO'.

9.2.11 The above standards apply to documents which are issued or signed by others on your behalf as well as by you. All charities registered in Scotland **must** meet these standards no matter what their size or income. However, new charities (other than SCIOs) do not have to keep to this standard for the first six months.

9.2.12 Scottish charitable companies **must** meet section 112(6) of the Companies Act 1989. If your name does not include 'charity' or 'charitable', you **must** reveal your charitable status on all business letters, all notices and other official publications, all bills of exchange, promissory notes, endorsements, cheques, orders for money or goods signed by or on your behalf, all agreements to transfer property from one owner to another which you have signed, all bills of parcels, invoices, receipts, and credit notes. Unlike the charity law rules, this also applies to cheques. Any person acting on behalf of a charitable company who issues a cheque without this statement is committing an offence and will be personally liable for the amount due on the cheque if you do not honour it.



### Further requirements for Northern Ireland

9.2.13 If you are a registered charity you must state that your charity is registered on all fundraising notices, advertisements and documents issued by you or on your behalf. This includes the following.

- Notices and other official publications
- Bills of exchange, promissory notes, endorsements, cheques and orders for money or goods signed on behalf of the charity
- Bills, invoices, receipts and letters of credit


9.2.14 If you are a registered company, you **must** include your company number, place of registration (for example, Northern Ireland) and the address of your registered office if the fundraising material takes the form of a business letter or is published on your website. As a registered company, you **must** give the name of the charity on all fundraising materials that are produced in any of the following forms.

- Business letters
- Notices and other official publications

- Bills of exchange, promissory notes, endorsements, cheques and orders for money or goods signed on behalf of the charity
- Any documents relating to selling or buying an interest in land
- Bills, invoices, receipts and letters of credit

9.2.15 If you are a registered company and your name does not include the word 'Limited', you **must** also include a statement that you are a limited company on all business correspondence.

## 9.3. Fundraising by mail

 *In this section, 'you' means a charitable institution or third-party fundraiser.*

9.3.1 As well as keeping to standards in **Section 3 Processing personal data (information)**, you must not send direct marketing mailings to people who have registered with the **Mailing Preference Service (MPS)** if you cannot show any evidence of a previous relationship with that person.

9.3.2 You must consider whether a person has registered with the MPS as part of your assessment as to whether you have a legitimate interest if you are planning to process a person's data for direct marketing purposes under the legitimate interest condition.

### Enclosures

9.3.3 You must be able to prove that the purpose of an enclosure was to strengthen the message or to involve the person emotionally in the cause, and not to encourage them to donate mainly because of financial guilt or to cause embarrassment.

For more standards on offering incentives to donors, see **section 2.7 Using funds**.

9.3.4 You must consider whether any enclosures are safe for the person receiving them.

9.3.5 You must not use enclosures that might cause inconvenience when delivering them, unless the donor knows about them or has asked for them.

## 9.4. Fundraising by telephone

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

This section includes all fundraising calls and voicemails that are made to ask for financial and other types of donations, such as volunteering time. It does not include administrative calls (although you can use these standards as guidance for those calls).

For more standards on the requirements relating to working with third-party fundraisers, see **section 7 Professional fundraisers, commercial participators and partners**.

The Telephone Preference Service (TPS) and Corporate Telephone Preference Service (CTPS) allow people or companies to register their phone numbers to show that they do not want to receive 'unsolicited' sales and marketing phone calls (that is, calls they have not requested).

9.4.1 If you are carrying out live fundraising phone calls, you must be able to show that you are meeting the legal requirements of the TPS.

9.4.2 You **must not** make marketing phone calls to the following people.

- Anyone who has registered with the TPS or CTPS, unless that person has told you that they agree to receiving direct marketing calls from you for the time being.
- Anyone who has asked you to stop or not begin direct marketing, as outlined in **section 3 Processing personal data (information)**.

9.4.3 You **must** have a written agreement in place which states that subcontractors must meet relevant data protection legislation and PECR.

9.4.4 You **must not** call anyone using an automated dialling system unless that person has agreed to this.

9.4.5 You must not call anyone you know is under the age of 16.

9.4.6 You must not generate telephone fundraising calls by dialling random numbers, whether dialling is done manually or by computer.

9.4.7 You **must not** claim that marketing calls are administrative calls.

Direct marketing rules do not apply to calls which are only for administrative purposes (for example, to confirm bank details or that a payment has been received). However, you should make sure that no marketing is included in these communications.

#### Further guidance

- The Fundraising Regulator: [Quick Guide to TPS Compliance](#) – for guidance on when to check TPS and keeping records on this
- The Information Commissioner’s Office: [Direct Marketing guidance](#) – for guidance on the difference between administrative and direct marketing purposes

#### During the call

9.4.8 You **must** make every fundraising call using a phone number which can be identified by the person receiving it and which they can return the call to.

For more standards on the requirements for telephone fundraisers under the [GDPR](#) and [PECR](#), see **section 3 Processing personal data (information)**. You should read the following standards along with the requirements highlighted in that section.

- 9.4.9 You **must not** make automated phone calls to people unless you have their consent.
- 9.4.10 You must not make calls after 9pm, except to people who have asked you to call after this time.
- 9.4.11 You **must** give your name and the name of charitable institution you are fundraising for when making a direct marketing call.
- 9.4.12 If the phone call is your first contact with a donor, you must ask if they are happy for you to contact them at that time. If they ask you not to call again, you **must not** do so.
- 9.4.13 If the person asks for one, you **must** provide a valid business address or Freephone number that they can use to contact you.
- 9.4.14 If you use a professional fundraiser to ask for donations by phone, they **must** give the identity of the charitable institution they are making the call for, along with a solicitation statement.

For more standards on solicitation statements by professional fundraisers, see **section 7.4 Solicitation (disclosure) statements for paid third-party fundraisers and commercial participators.**

- 9.4.15 You **must** avoid persistent misuse of an electronic communications network or service to contact donors (including making silent or abandoned calls).
- 9.4.16 You must make clear that you are asking for financial or other types of support.
- 9.4.17 You must not ask for a financial contribution more than three times during a fundraising phone call.
- 9.4.18 You must make the purpose of the call clear if you are leaving a voicemail.

For more standards on what must be included in any fundraising materials you send as a result of a phone call, see **section 9.2 References in documents.**

**Further guidance**

- Ofcom: [Revised Statement on the Persistent Misuse of an Electronic Communications Network or Service \(2016\)](#) – for guidance about silent calls and other types of nuisance calls

## 10. Digital

When used responsibly, technology can play an important part in expanding the reach of charitable fundraising appeals. This section includes standards for online fundraising platforms, including telling donors about how you will use their data and any fees you may take for hosting a fundraising campaign. It also includes the standards for emails and messages to mobile devices, including meeting the Phone-paid Services Authority Code of Practice, marketing messages and using charity short codes.

As well as your main website, you may have other related websites or microsites created for specific campaigns or events. This section covers all websites you create.

### 10.1. Digital media



*In this section, 'you' means a charitable institution, a third-party fundraiser or an online fundraising platform.*

10.1.1 In England, Scotland and Wales, you **must** meet the [Equality Act 2010](#) (so far as it applies in the area in which you are fundraising) and **must** make 'reasonable adjustments' to meet the needs of all users. In Northern Ireland, you must not discriminate against people with characteristics that are protected under the laws of Northern Ireland. You can get more information from the [Equality Commission for Northern Ireland](#).

- 10.1.2 You must make sure that your contact information is easy to find on your website.
- 10.1.3 You **must** meet the [Privacy and Electronic Communications \(EC Directive\) Regulations 2003](#) (as amended in 2011) and wider data protection requirements.
- 10.1.4 You **must** let users know if the website uses cookies. The way you do this **must** be suitably prominent and understandable to make sure that if the user agrees to you using cookies, this decision is informed.
- 10.1.5 You **must** clearly explain how you collect and use personal data, for example, through a privacy policy or statement.
- 10.1.6 You must make sure all information about how you collect and use personal data is easily accessible from the website's home page and any page which collects personal data.

### Further guidance

For specific guidance on equality law:

- Charity Commission for England and Wales: [Equality Act: guidance for charities](#)
- The Scottish Charity Regulator (OSCR): [Charities and the Equality Act 2010](#)
- Charity Commission for Northern Ireland: [Equality guidance for charities](#)

For guidance on meeting international accessibility standards:

- Government Digital Service: [Make your public sector website or app accessible](#)

## 10.2. Online fundraising platforms

**i** *In this section, 'you' means an online fundraising platform.*

Donation pages hosted on a charitable institution's own website (that is where the donor is not directed away from the charitable institution's own domain name to a third party's) are not considered within this section of the code if no fees are charged on individual donations. If a third party charges fees (including payment transaction fees) on a donation-by-donation basis, charitable institutions should make sure the fees, and how they are charged, are clear, in line with this section of the code.

Money raised through online fundraising platforms may go:

- direct to a charitable institution;
- to a fundraiser or fundraisers to pass on to a registered charitable institution; or
- to a beneficiary who is not a registered charitable institution.

If you provide links to our and your own guidance, you must explain your reasons for this to make sure that prospective donors are suitably informed about appeals before donating and that funds raised are managed appropriately.

Alongside the standards below, you should pay particular attention to the following sections of the code.

- For more standards on data protection, see **section 3 Processing personal data (information)**.
- For more standards on processing donations, see **section 4 Processing donations**.
- For more standards on the relationship between charitable institutions and those carrying out fundraising activities through online fundraising platforms, see **section 5 Volunteers**.
- For more standards on agencies providing fundraising services, see **section 7 Professional fundraisers, commercial participators and partners**.

### Further guidance

- Fundraising Regulator: [Guidance for Fundraising Platforms](#)
- Fundraising Regulator: [Online Fundraising advice and guidance for the public](#).

### Fees for hosting a fundraising campaign

In some circumstances an online fundraising platform may fall within the definition of a professional fundraiser or commercial participator. If this is the case, see **section 7 Professional fundraisers, commercial participators and partners** for definitions and standards you must follow.

- 10.2.1 If you charge fees for hosting a fundraising campaign (for example, platform fees, a proportion of the donation or Gift Aid, payment transaction fees, administrative fees, or monthly or yearly subscription fees paid by a charity or fundraiser), you must make sure that the following details are clearly visible to people donating through your site and are displayed before the point at which you ask for their financial details.
- How your pay will be calculated (for example, as a percentage of the Gift Aid, a fee charged on each donation or X pounds (or pence) of each donation).

- How much you will receive, if you know this at the time of the donation. (If you don't know the exact amount, give an example that demonstrates how much your organisation would receive on an imaginary donation).

### Responsibilities of online fundraising platforms

- 10.2.2 You must provide a link to our guidance for those setting up a fundraising page on your website.
- 10.2.3 You must make sure our guidance is:
- easily accessible for those setting up a fundraising page on your site; and
  - available before the point at which donation pages become active.
- 10.2.4 You must also publish good-practice guidance for those setting up a fundraising page on your website.



10.2.5 Your guidance must highlight things fundraisers should consider when planning their appeal to prospective donors. This must include the implications of raising money for a cause where no charitable institution is identified as the beneficiary, including:

- the possibility that a personal crowdfunding appeal may itself need to be registered as a charity with the relevant regulatory body; and
- if you are a charity, that the appeal will need to meet the legal requirements for public benefit.

10.2.6 You must publish guidance that highlights the following requirements which fundraisers should include when publicising their appeal to prospective donors through their fundraising page on your site.

- Who is organising the appeal.
- Whether the money raised is for a specific purpose or for the person receiving it to use as they see fit. If the money is for a charitable institution and will be used for a specific purpose, fundraisers must contact the charitable institution to make sure they are aware and happy to receive the money for this purpose. For more standards on money given for restricted purposes, see **section 2.7 Using funds**.

- What the target of the appeal will be, if this applies. This might be a time target or a financial target.
- Whether the fundraiser is raising money on behalf of or for a charitable institution and, if this applies, the name of the charitable institution.
- How people can donate, including, where relevant, alternative ways of donating to the appeal and ways to increase donations through Gift Aid.
- What deductions will be made for expenses.
- What the fundraiser will do with the money if:
  - they do not raise enough to meet their target;
  - they raise more than their target; or
  - the original purpose for which they are asking for donations is no longer valid for any reason.

10.2.7 You must ask those setting up a fundraising page on your site to confirm that they have read and understood the guidance using a clear and positive action before the donation page is published (for example, using active methods such as ticking unticked boxes).



10.2.8 You must take reasonable measures to avoid fraudulent activity and money laundering through your site. If the money raised is not going straight to the bank account of a charitable institution, you **must** make it clear, before a donation is made, that donors give at their own risk.

10.2.9 You must state that your users need to keep to the sections of the code that apply to their fundraising as a condition of using your site and that you have the right to end or suspend their use of the site if necessary.

#### Further guidance

- Charity Commission for England and Wales: [Public benefit: rules for charities](#) – for guidance on public benefit for charities registered in England and Wales

#### Data protection and privacy


10.2.10 You **must** meet all relevant data protection laws. Personal details of donors and fundraisers **must** only be passed from your organisation to another if you are allowed to do this by law (this is known as having a lawful basis to do so). For more information, see **section 3 Processing personal data (information)**.

#### Payment services

10.2.11 If these apply, you **must** meet:

- all legal requirements relating to the [Payment Services Regulations 2017](#), and
- all relevant [financial services laws and regulations](#).

#### 10.3. Messages to mobile devices

 *In this section, 'you' means a charitable institution or third-party fundraiser.*

10.3.1 You **must** register with the [Phone-Paid Services Authority \(PSA\)](#) and meet its [Code of Practice](#), when using premium-rate text messages, unless the services are exempt (as defined in the PhonePayPlus Code).

10.3.2 You **must** only send marketing messages to mobile phones belonging to individuals if those people have already given you permission to do this.

10.3.3 You **must** make the process people need to follow to register to receive messages clear on all relevant documents, including websites. And you **must** include procedures for unsubscribing from messages on all marketing messages you send.

- 10.3.4 You must use a simple opt-out message for people to tell you if they don't want to receive messages from you.
- 10.3.5 You **must** make sure that users can opt out of any marketing message, free of charge (except for the costs of sending the opt-out message).

For more standards on data protection, see **section 3 Processing personal data (information)**.

- 10.3.6 You **must** make the cost of premium-rate messages clear to donors and must explain how and when they will be billed.
- 10.3.7 You must offer an option for people to reply by text message to opt out of receiving further messages, and this must be clear in all marketing.
- 10.3.8 For competitions and prize draws, you must provide a clear and simple method of accessing any terms and conditions and you must publish the identity of the promoter.
- 10.3.9 When receiving donations by text message, you must use charity short codes. (See the glossary for a definition of charity short codes).

#### **10.4. Bulk email**

- 10.4.1 You must not send bulk emails from a named person's email account.

## **11. Events**

Event fundraising is a way to bring communities together to fundraise for a particular cause. This section contains standards for planning and carrying out events (including challenge events) in the UK or overseas, including getting any permission that is needed to use a site, making sure the event is safe and managing the risks responsibly.

### **11.1. Venues, locations and equipment**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

- 11.1.1 When identifying a suitable venue or location for an event, you:
- **must** consider issues of equal access for all, even if an event is being targeted at a specific group of people;
  - **must** make sure the venue meets the legal requirements on health and safety; and
  - must make sure the venue or location is fit for purpose, taking note of any restrictions, and be able to justify any environmental effect the event might have.

11.1.2 If any specialist equipment is needed by (or recommended for) anyone taking part, you must give a list to each team or person taking part in enough time for them to borrow or buy any necessary items. The list should say who is responsible for the kit and who it is suitable for. People taking part must not go ahead if the equipment mentioned above is not suitable.

11.1.3 If those taking part need to use vehicles, you must tell them to take rest stops and plan their journey in a way that recognises road safety, especially speed limits.

## 11.2. Risk assessment and insurance

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

11.2.1 If you are an employer, you **must** carry out a suitable risk assessment before holding an event of any size. Other fundraisers (who are not employers) must carry out a risk assessment if it is reasonable to do so.

11.2.2 You must make sure that health and safety arrangements (for example, medical cover and evacuation arrangements) are appropriate for the event and the country it will be held in.

11.2.3 You **must** make sure that any insurance policies you have to have by law are in place. You must make sure you have sufficient third-party public-liability cover in place and must consider whether you should take out any other insurance cover.

11.2.4 You must be clear who (for example, you or the building owner) is insuring against which risk.

For more standards on health and safety and risk assessments, see **section 5 Volunteers**.

## 11.3. Licences and permission

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

11.3.1 You **must** make sure that you have any permission or licences you need for the event from the local authority or other relevant body.

11.3.2 If you are planning an event in England and Wales on private property, you must get permission if this is needed. In Northern Ireland you must get permission from the land owner if this is needed.

11.3.3 In Scotland, the rules are more complicated and, although generally there is no absolute legal requirement to do so, you must be able to show you have made reasonable attempts to get permission from land managers to make sure that you do not break the requirement to exercise access rights responsibly.

11.3.4 You must not have more than the maximum number of people allowed to take part in an event under the relevant permission, licence or local conditions. In some cases this will be a legal requirement that you **must** keep to under the licence agreement. Having more than the maximum numbers could also mean that any insurance you have taken out for the event is no longer valid.

11.3.5 You must meet relevant local guidance or information that applies to the site you are using when planning an event.

11.3.6 You must keep to the Countryside Code in England and Wales, the Scottish Outdoor Access Code in Scotland and the Northern Ireland Countryside Code in Northern Ireland.

### Specific considerations for open access land (England and Wales)

11.3.7 If you plan to use open access land in England and Wales, you must:

- meet the Countryside and Rights of Way Act 2000 (the act) if it applies;
- make sure your activity is allowed under the act; and
- check whether you need permission from land owners for the activity (and if so, get permission).

### Further guidance

- Natural England: Open access land: management, rights and responsibilities – for guidance on how open access land can be used

## 11.4. People taking part in a fundraising event

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

11.4.1 If you refuse permission for a person to take part in an event, you **must** meet consumer and discrimination laws.

11.4.2 You **must** get any permission you need by law for a person to be involved in an event in writing before the event. (This includes, where relevant, accepting legal terms and conditions and to protect health and safety.)

For more standards on data protection requirements, see **section 3 Processing personal data (information)**.

11.4.3 You must make sure people taking part are aware of any fundraising targets they are expected to meet.

11.4.4 If a certain age, level of fitness, preparation or training is necessary for a person to be able to take part safely, you must agree this beforehand with the people involved.

### 11.5. Promoting an event



*In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

11.5.1 In all promotional materials about taking part in an event, particularly materials sent as part of 'fundraising packs', you must clearly indicate if any part of the money a person taking part raises will be used towards their expenses or otherwise to benefit them.

11.5.2 If you use recruitment materials such as adverts in the press, that are designed to encourage people to take part in an event, you must not mislead readers into believing that their commitment would be limited to any minimum personal registration fee.

11.5.3 You must make sure that all marketing materials have accurate and clear details of the event and clearly state how the money raised from the event will be used.

11.5.4 If the person taking part does not personally pay the whole cost of the trip, but uses some of the sponsorship money for this purpose, you **must** make sure they know that they **must** make this clear to every donor.

11.5.5 If merchandise sales or fundraising events (such as challenge events) are carried out through a trading company, you must **make** this clear on relevant communications or web pages.

For more standards on communications and adverts, see **section 9 Fundraising communications and advertisements**.

## 11.6. Cancelling an event and contingency plans

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

- 11.6.1 You must make sure that sponsorship forms are clear about whether the fundraiser needs to meet any conditions in return for the sponsorship money (for example, run a marathon).
- 11.6.2 If sponsorship money is given under certain conditions and the sponsored event is cancelled, or a person is unable or unwilling to take part in or complete the event for any reason, the person who collected the sponsorship money must contact donors and ask if they are still happy for the money to go to your charitable institution, and issue refunds if they are not. If sponsorship money is given without conditions, it automatically belongs to your charitable institution, whether or not an activity is completed.
- 11.6.3 If you plan a fundraising event, you must have a plan to cover all situations you could reasonably anticipate, and make sure the people involved understand exactly what you expect of them.

## 11.7. On the day

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

### Safety

- 11.7.1 Before the event, you must carry out a final check to make sure everything is in place, especially fire exits, first aid and equipment.
- 11.7.2 You must put in place procedures at the event to avoid congestion (in particular, if an emergency evacuation is needed).
- 11.7.3 You must have marshals and stewards with relevant experience, where necessary.

### Selling and trading

- 11.7.4 If you are a charitable institution and will be selling products or services at an event, you must make sure you are allowed to trade under the documents that govern your organisation. If you are a charity, you must consider the tax consequences of trading within the charity.
- 11.7.5 You **must** make sure that any product being sold at the event meets relevant safety standards.

11.7.6 You **must** make sure that any food being supplied meets hygiene regulations (the [Food Hygiene \(England\) Regulations 2006](#), the [Food Hygiene \(Wales\) Regulations 2006](#), the [Food Hygiene \(Scotland\) Regulations 2006](#) or the [Food Hygiene \(Northern Ireland\) Regulations 2006](#)). For more details, contact the environmental health department of the relevant local authority.

11.7.7 If you are selling or providing alcohol, you **must** have the relevant licences and permission, and keep to any age limits.

### 11.8. Financial procedures

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

11.8.1 You **must** meet any tax and VAT laws and regulations that apply to the event, including those relating to record keeping.

11.8.2 You must have financial procedures in place for money received before or during an event.

#### Further guidance

- GOV.UK: [VAT record keeping](#)
- GOV.UK: [VAT for charities](#)

### 11.9. After the event

**i** *In this section, 'you' means a charitable institution.*

11.9.1 If you are a charitable institution, you must have procedures or a policy for following up donors who have not paid or who have not met any minimum sponsorship requirements.

For more standards on the processing and handling of donations, **see section 4 Processing donations.**

### 11.10. Events organised by third parties

**i** *In this section, 'you' means a charitable institution or third-party fundraiser unless we tell you otherwise.*

As well as the standards in **section 7 Professional fundraisers, commercial participators and partners**, the following standards apply to fundraising events organised by third parties.

11.10.1 You must have an agreement with the event organiser, which sets out specific responsibilities and risk.



### 11.11. Events involving travel



*In this section, 'you' means all charitable institutions unless we specifically refer to registered charities.*

There are special legal requirements for events involving flights and certain other travel services.

The Package Travel and Linked Travel Arrangement Regulations 2018 state that they apply to:

'the pre-arranged combination of at least two of the following components when sold or offered for sale at an inclusive price and when the service covers a period of more than 24 hours or includes overnight accommodation:

- (a) transport;
- (b) accommodation; and
- (c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package.'

Most of the obligations under the regulations fall on the organiser. There are also obligations on retailers who sell packages to consumers. Generally, charitable institutions will want the specialist tour operator to be the 'organiser' with responsibility for keeping to the regulations. This is a complicated area and you should get appropriate legal advice on this.

There are other legal requirements for events involving flights (under the Civil Aviation Air Travel Organisers' Licensing Regulations 1995 (the ATOL Regulations)). The Civil Aviation Authority (the CAA) has, in the past, issued guidance for charities organising challenge events involving flights. Detailed information is available on the CAA's website. This is also a complicated area and you should get professional legal advice. You may need permission from the CAA, or to give them notice, for flying displays, operating balloons for public flights and other 'unusual aerial events' (for example, releasing balloons, using drones, and fireworks displays).

- 11.11.1 You **must** meet laws relating to travel, including the Package Travel and Linked Travel Arrangement Regulations 2018 and the Civil Aviation Air Travel Organisers' Licensing Regulations 2012 (the 'travel regulations').
- 11.11.2 You must be clear who is responsible for meeting the travel regulations.
- 11.11.3 You must check the track record and reliability of the tour operator and any subcontractors.



11.11.4 When organising a challenge event and drafting forms for collecting information from the people taking part and privacy notices, you must clarify with the tour operator who will be collecting the information and for what purposes it will be collected and held.

For more standards on data protection, see **section 3 Processing personal data (information)**.

11.11.5 If an event organiser, or the people taking part, falls within the definition of a professional fundraiser or commercial participator, you must take reasonable steps to make sure everyone keeps to these requirements.

## 12. Lotteries, prize competitions and free draws

If you intend to run a lottery, prize competition or free draw for charitable purposes, you need to follow any gambling regulations that may apply, including laws relating to the process of allocating prizes fairly. This section sets out the responsibilities for fundraising organisations taking part in these activities.

**i** *In this section, ‘you’ means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution unless we tell you otherwise. For lotteries, ‘society’ means the charitable institution.*

### The law in England, Wales and Scotland

Lotteries include raffles, tombolas, sweepstakes and some other activities.

In the law of England, Wales and Scotland, a lottery is a type of gambling which has three essential characteristics.

- You must pay to enter the game.
- There is always at least one prize.
- Prizes are awarded purely by chance.

The Gambling Act 2005 created six categories of lotteries.

1. Private lotteries, including:
  - private-society lotteries;
  - work lotteries; and
  - residents' lotteries.
2. Lotteries held at events (known as 'incidental lotteries').
3. Customer lotteries. (Please note that, as customer lotteries cannot make a profit, they are not suitable for fundraising.)
4. Small-society lotteries.
5. Large-society lotteries.
6. Local-authority lotteries. (These are run by local authorities and so are outside the scope of the code.)

Each type of lottery has its own standards and you can find an overview of these in the [Gambling Commission Guidance](#).

A lottery run by or for the benefit of a charitable institution will fall under the definition of a society lottery. However, that does not prevent you or those fundraising on your behalf from running lotteries under another appropriate category.

Lotteries which fall within categories 1 and 2 above do not need a licence or permission from any authority if the charitable institution meets the rules that apply. Tombolas, lotteries and raffles held at events which fall within category 2 are a common type of fundraising. These do not need a licence or permission from any authority (although you should get permission from the event organiser or site owner). For more information see the Gambling Commission's [guidance on organising small lotteries](#).

For lotteries which fall within categories 4 and 5, the society must have the relevant permission from either a local authority (in the case of small society lotteries) or the Gambling Commission (in the case of large society lotteries) before marketing or selling tickets. You can visit the Gambling Commission's website for more information on [small-society lotteries that don't need a licence](#) and [society lotteries which need a licence or registration](#).

Sometimes, large charitable institutions outsource part of the work involved in running large-society lotteries to an external lottery manager (ELM). You can find Gambling Commission guidance on ELMs [here](#).

### **The law in Northern Ireland**

Lotteries in Northern Ireland must meet the Betting, Gaming and Lotteries (NI) Order 1985, as amended by the Betting and Lotteries (NI) Order 1994 and as added to by the Lotteries Regulations.

There is no legal definition of a lottery in the law of Northern Ireland.

Under the order, all lotteries are unlawful unless they are:

1. small lotteries which are a small part of exempt entertainment (that is, entertainment which does not need a licence);
2. private lotteries;
3. society lotteries; or
4. part of the National Lottery.

Each type of lottery has its own rules. For more details, see the Northern Ireland Department for Communities' guidance.

### **12.1. Lotteries – general responsibilities**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution unless we tell you otherwise.*

21.1.1 You **must** meet the relevant national legal requirements for lotteries.

12.1.2 You **must** make sure you are not running an illegal lottery.

12.1.3 To run an exempt lottery (one which does not need a licence), you **must** meet the conditions set out in law.

12.1.4 If you need to hold a licence for the type of lottery you are running you must meet the relevant codes of practice, licence conditions, and conditions set out in law and relevant regulations.

12.1.5 In England, Wales and Scotland, if you hold a licence for the type of lottery you are running, you **must** tell the Gambling Commission about any matters that will have a significant effect on your organisation or that the Gambling Commission would reasonably need to be aware of when carrying out its duties. For more information on what you need to tell the Gambling Commission about, see its [licence conditions and codes of practice](#).

## 12.2. Role of the promoter

**i** *In this section, 'you' means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution unless we tell you otherwise. For lotteries, 'society' means the charitable institution.*

- 12.2.1 The designated individual promoter must be authorised in writing by the governing body of the society to act as a promoter.
- 12.2.2 By law, the promoter is responsible for making sure the lottery is run within the law and **must** make sure that anyone distributing and selling tickets is aware of the legal rules that apply, even if they use a subcontractor to sell the tickets.

## 12.3. Considerations other than the Gambling Act

**i** *In this section, 'you' means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution unless we tell you otherwise. For lotteries, 'society' means the charitable institution.*

- 12.3.1 If you are a society using a premium phone line to allow people to enter your lotteries, you must meet the [code of practice published by the PSA](#) (the independent regulator of premium-rate services in the UK). A number of sections of its code are relevant to lotteries.
- 12.3.2 If you are promoting society lotteries, you must meet the Code of Non-broadcast Advertising and Direct and Promotional Marketing (CAP code) and the Code of Broadcast Advertising (BCAP code), including:
- CAP – 08 Promotional marketing;
  - CAP – 16 Gambling;
  - CAP – 17 Lotteries;
  - BCAP – 17 Gambling; and
  - BCAP – 18 Lotteries.
- 12.3.3 In Northern Ireland, you must not send tickets that have been sold for a private or society lottery through the post.

#### **12.4. The draw**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution unless we tell you otherwise. For lotteries, 'society' means the charitable institution.*

- 12.4.1 The draw must be witnessed and you should make a record of the result.
- 12.4.2 You must include all paid-for, valid ticket entries in the draw.
- 12.4.3 If you are going to transfer late entries to the next draw, you must be clear about this when you sell the ticket.
- 12.4.4 If, for any reason, the draw date needs to be delayed from that shown on the ticket, you must take all reasonable steps to make sure that everyone who has bought a ticket knows about the change, and you must discuss it with the issuer of the licence.

#### **12.5. Procedure after the draw**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution unless we tell you otherwise. For lotteries, 'society' means the charitable institution.*

- 12.5.1 You must return all filled-in ticket stubs and payments to the promoter for audit purposes.
- 12.5.2 If the owner of a winning ticket donates their prize back to a society, this must be shown in your lottery's accounting records as a donation.
- 12.5.3 You must not make details of winners public without their permission.
- 12.5.4 You must contact all winners within seven days of the draw.
- 12.5.5 You must make all reasonable efforts to award prizes to the holders of winning tickets.

## 12.6. Prize competitions and free draws



*In this section, 'you' means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution unless we tell you otherwise.*

### England, Wales and Scotland

The Gambling Act does not apply to prize competitions and free draws as long as they meet the conditions set out in the act. The Gambling Commission has no regulatory responsibilities relating to genuine prize competitions and free draws, but it does monitor the boundary between them and lotteries to make sure that schemes claiming to be prize competitions or free draws are not illegal lotteries.

12.6.1 To be a prize competition you **must** make sure that anyone taking part has a level of knowledge or judgement or displays an element of skill that will prevent a significant proportion of people from entering or from winning a prize.

12.6.2 To be a free draw the arrangement **must** either be completely 'free' to enter, as defined in the Gambling Act, or have a free method of entry, which **must** also be as accessible as and no less convenient than paying to enter. Anyone taking part using the free method **must** have the same chance of winning as they would if they paid to enter.

### Northern Ireland

12.6.3 Northern Ireland operates under rules preventing any form of purchase that allows you to enter a prize draw. Often, promoters running UK-wide prize draws will exclude people in Northern Ireland from the promotion. For Northern Ireland prize draws, you **must** either exclude people who live in Northern Ireland or find a 'no-purchase necessary' way to promote the prize draw in Northern Ireland.

### Further guidance

- The Gambling Commission: Prize competitions and free draws
- The Gambling Commission: Running prize competitions and free draws

## **13. Grant-making bodies (including trusts and foundations)**

Grant-making bodies make money available to fund projects within their charitable, philanthropic or benevolent purposes. This section includes standards about applying for, receiving and using these grants.

### **13.1. Statutory funding**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

13.1.1 You must follow any extra rules that may apply for statutory funding, such as EU or government grants.

### **13.2. Preparation and procedures**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

13.2.1 In general, you must avoid mass mailings and cold-calling to grant-making bodies, except in exceptional circumstances, for example a national disaster or emergency.

13.2.2 If you are giving a referee on an application, you must get their permission to include their details before submitting the application, and show them the application before you submit it.

### **13.3. After applications have been accepted or rejected**

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

13.3.1 You must strictly follow the administrative requirements of the grant-making body regarding payment. (These will depend on the terms and conditions that apply to the grant.)

13.3.2 You must make sure that both you and the grant-making body understand and agree any conditions that apply to the grant before you formally accept it. These may include the grant-making body being involved in the work (for example, by helping to manage it or by giving advice), or you publicly acknowledging their support.

13.3.3 If your application is rejected, you must only appeal or try to persuade the grant-making body to reconsider if you have a clear reason for doing so, such as if there are clear mistakes in the facts used to make the decision, or if you are following the grant-making body's appeal procedures.

### 13.4. Reporting

**i** *In this section, 'you' means a charitable institution or third-party fundraiser.*

- 13.4.1 If you want to spend a grant in a different way to what was originally planned, you must first get the grant-making body's approval in writing, if that is a condition of the grant-making body's funding.
- 13.4.2 You must closely follow reporting guidelines and requirements if they form conditions under a grant contract.
- 13.4.3 If there are likely to be serious problems with the funded work, you must tell the grant-making body as soon as possible, and keep them informed as the matter develops. You must follow any requirements in the contract relating to this.

## 14. Payroll giving and post-tax salary donations

This section includes the standards for promoting payroll and post-tax salary donation schemes in the workplace. It includes meeting HMRC requirements and making sure that employers and employees have clear expectations about how your scheme works.

There are various types of fundraising within the workplace, and there are direct laws and self-regulation that you should keep to. This code specifically covers donations made direct from an employee's salary. This could take either of the following forms.

- **Payroll giving** – a tax-efficient scheme where the donation is taken from employees' pay before tax is taken.
- Post-tax salary donations – where employees' donations are taken direct from their salary after tax has been taken.

These schemes only apply to giving to charities, and all payroll-giving schemes must be run through a payroll-giving agency chosen by the employer.

Payroll-giving agencies receive employees' donations, which the employer has taken through the payroll, and pass these to the relevant charities.

The Charitable Deductions (Approved Schemes) Regulations 1986 place certain requirements on employers. We have not mentioned these in this code, but it may be useful to be aware of them.



HM Revenue & Customs (HMRC's) website has a [list of currently approved payroll-giving agencies](#).

As well as the standards in **Part 2 Working with others**, the following standards apply to fundraising through payroll giving.

#### **14.1. Professional fundraisers and payroll giving**

**i** *In this section, 'you' means a payroll-giving agency or a professional fundraiser involved in payroll giving unless we tell you otherwise.*

For more standards on professional fundraisers, see **section 7 Professional fundraisers, commercial participators and partners**.

14.1.1 If, as a payroll-giving agency, you use fundraisers who fall within the legal definition of a [professional fundraiser](#) to promote payroll-giving schemes to employees, you **must** have a written agreement in place and make sure that the fundraisers make the necessary solicitation statements.

14.1.2 If you are a professional fundraiser, you must make sure that information relating to new donors is processed and passed to the charitable institution as soon as possible.

14.1.3 If you are a professional fundraiser representing more than one charity, you must make sure they are all represented in a completely neutral way.

#### **14.2. Pre-tax payroll giving**

**i** *In this section, 'you' means a payroll-giving agency or professional fundraiser involved in payroll giving unless we tell you otherwise.*

14.2.1 As a payroll-giving agency, you **must** have a written agreement in place with employers using your scheme.

14.2.2 You must not offer benefits to donors, and you must keep to the donor's wishes relating to which charity or charities will receive their donation.

14.2.3 You **must** meet the requirements in [The Charitable Deductions \(Approved Schemes\) Regulations 1986](#) and any amendments to these.

- 14.2.4 If you (or an employer) are going to highlight the different levels of tax relief, you must make sure fundraisers have up-to-date information from HMRC.
- 14.2.5 You must make sure that donors are aware that, following a payroll-giving promotion, they are still free to choose to give to any charity.

For more information on the legal requirements for payroll-giving agencies, see the [HMRC website](#).

### 14.3. Promoting committed giving in the workplace

**i** *In this section, 'you' means a payroll-giving agency or professional fundraiser involved in payroll giving unless we tell you otherwise.*

- 14.3.1 Before asking a group of employees for donations, you must agree conditions of access with the relevant employer.
- 14.3.2 If you are a fundraiser, you must wear visible photo identity badges, provided by the organiser of the fundraising activity or the relevant fundraising organisation, at all times.
- 14.3.3 You must make sure that donors are aware that they have the right to end an agreement to donate at any time.

## 15. Legacies

Gifts in wills can be a particularly sensitive area of fundraising, so it is important that fundraisers have clear role boundaries. This section sets out standards to avoid undue influence and pressure and manage conflicts of interest while being sensitive to the wishes of the person leaving the gift (the testator) and any conditions they may attach to the gift.

### 15.1 Legacies – general responsibilities

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

- 15.1.1 You must make sure that all fundraising activity relating to legacies considers:
- the freedom of the person leaving the legacy (the testator) to provide for their family and others; and
  - any sensitive circumstances of the potential testator and their family and friends.
- 15.1.2 You must make sure fundraisers do not provide legal advice. Whenever legacy fundraising is done by an external third party who is a professional fundraiser, this fundraising **must** meet the legal obligations that professional fundraisers have.

For more standards on professional fundraisers, see section **7 Professional fundraisers, commercial participators and partners**.

- 15.1.3 If a person making a will asks you or any of your officers or employees to act as executor, you must carefully consider whether to agree, bearing in mind the duties and responsibilities of acting as executor and any possible risks to you.
- 15.1.4 If you are to be appointed as executor and take out the grant of representation in your own name, you **must** have the power to do so (for charities in England and Wales this usually means that you **must** have trust corporation status).

## **15.2. Written communications asking for legacies**

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

- 15.2.1 You must make it clear that the contents of any communications are not intended to be legal advice from you and that potential testators should get their own professional advice.

- 15.2.2 If you give a potential testator suggested wording for legacies made to you to be included in their will, you must make sure that the suggested wording is accurate (which may involve getting legal advice) and that you are clearly identified (this will depend on which country you are in, but will usually mean providing your full name, company number, address and the registered office address if you are a company, and registered charity number, if this applies).

## **15.3. Communicating in person**

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

- 15.3.1 You must be open about the reason for an invitation to an event if it is about legacies or if legacies will be discussed and may be asked for.
- 15.3.2 You must not exploit beneficiaries or supporters by using them as case studies or testimonials for legacy giving, and must respect their dignity and privacy. If you want to use case studies, you must get permission from the testator (or if they have died, from the person responsible for the estate) if possible.

15.3.3 You must not hold individual face-to-face meetings in a potential testator's home to discuss legacies without that person having first had the opportunity to refuse the meeting.

15.3.4 In all visits to people who might consider leaving a legacy to you in their will, you must make sure that your fundraiser:

- accepts the person's right to invite other people of their choice to be present at any stage of the meetings;
- reminds the person of the purpose of the visit;
- makes sure that the meeting is carried out in a way and at a length that is sensitive to and suits their interests and concerns;
- accepts the person's right to end the meeting at any time, and does this promptly and politely; and
- makes and keeps attendance notes of meetings and communications with the person on file.

15.3.5 In all visits to people who might consider leaving a legacy to you in their will, you must make sure that your fundraiser does not act in any way that a reasonable person might judge to be threatening or as putting undue pressure or influence on the person.

#### **15.4. Involvement of charitable institutions in making a will**

**i** *In this section, 'you' means a charitable institution, but each of the standards applies equally to the employees, agents and subcontractors of the charitable institution.*

15.4.1 You (or your fundraiser) must not draft, or be directly involved in drafting, wills in your favour.

#### **15.5. Fundraisers' relationships with potential testators**

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

Close relationships can develop between a fundraiser and a person considering leaving a legacy to a charitable institution. This can sometimes benefit the fundraiser rather than the charitable institution, and a legacy may be left to the individual fundraiser rather than to you as the charitable institution.

15.5.1 If you are a fundraiser and you are offered a personal legacy (rather than to the charitable institution), you must explain to the person making the will that if they want to give a legacy to you personally, you must tell your line manager at your charitable institution about the gift.

15.5.2 Your fundraisers must not take advantage of being employed by you to ask for a personal legacy. If you believe that a fundraiser has abused their position and has asked for a personal legacy, you must follow disciplinary procedures for dealing with these situations.

### 15.6. Paying for wills with charity funds

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

15.6.1 There are considerable risks to you in paying the costs involved in making a will which includes a legacy to you, so it is discouraged. But if you want to do this, you:

- must not insist that you receive a legacy or that you are appointed as executor in exchange for paying for the will;
- must always recommend to the person making the will that they should get independent legal advice; and
- must make it clear to the person making the will that the solicitor or other will writer will be acting only in their interests and on their instructions.

#### Further guidance

- Charity Commission for England and Wales: [Raising funds through wills and charitable legacies](#) – for guidance on paying for wills with charity funds
- Institute of Legacy Management: [Good Practice Guidance](#) – for guidance on the ethics of legacy fundraising

### 15.7. After a legacy has been made

**i** *In this section, 'you' means a charitable institution, unless we tell you otherwise.*

#### Ongoing contact with testators

15.7.1 You **must** respect the wishes of the testator if they tell you they don't want to receive any further marketing communications from you (which would include any fundraising requests) or, wherever possible, if they ask for a certain level of contact.

15.7.2 If a testator asks you to explain to family members why they are not included in their will, you must refuse or say that you can only explain why you need the legacy.

### **Legacies where conditions or restrictions apply**

- 15.7.3 If you can meet the conditions and you accept a legacy, you must follow those conditions.
- 15.7.4 If a legacy is left under the condition that it is used for a particular purpose or project, but you cannot meet that condition, you must contact the testator's personal representatives before accepting the legacy.
- 15.7.5 If you are a charity and receive a legacy for a specific purpose, you must contact the Charity Commission for England and Wales, OSCR or Charity Commission for Northern Ireland (as appropriate) for help if:
- the purpose has been fulfilled or otherwise provided for;
  - the money or gift can no longer be used for that purpose;
  - the purpose is no longer a charitable purpose; or
  - the intended purpose has stopped being a suitable and effective use of the money or does not provide a use for all the money.

- 15.7.6 If a legacy is left under the condition that it is used for a particular purpose, you must not use the legacy for a different purpose without proper authority from the Charity Commission for England and Wales, OSCR or Charity Commission for Northern Ireland, or the Attorney General for Northern Ireland.

### **Recognising legacies**

- 15.7.7 You must respect the testator's or their estate's wishes about any public recognition of the gift.

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# Glossary

This section defines the key terms used in the code. You should read all definitions within the context of the code.

## A

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### **abandoned call**

A phone call that ends when the person contacted picks up the receiver. Instead of a person on the other end of the line, the person receiving the call hears an information message stating that an organisation had tried to call, but no operators were free to make the call.

## B

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### **beneficiary**

The beneficiaries of a charitable institution are the people or organisations that fall within the class of people who will or may be helped by the charitable institution. In the case of an appeal or a will, a beneficiary is a person or organisation who will or may receive a benefit from the appeal or the will.

### **benevolent body (in the context of solicitation statements in Scotland)**

Any organisation in Scotland, whether or not it is a charity, which has been set up for charitable, benevolent or philanthropic purposes.

See also 'philanthropic or benevolent organisations'.

### **benevolent fundraiser (in the context of solicitation statements in Scotland)**

A benevolent body or any company connected to it, any person who manages or controls it or any employees or agents of either of those people or of the benevolent body or connected company.

### **benevolent fundraising**

Asking for money or promises of money for the benefit of benevolent or connected companies, or for charitable, benevolent or philanthropic purposes.

### **benevolent organisation**

See 'philanthropic or benevolent organisations'.

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## C

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### **certificate of authority**

A certificate that shows that a fundraiser is legitimately volunteering or working for a particular charitable institution. In some cases a collector will need to carry a certificate of authority issued by the Stationery Office as a condition of getting a licence.

### **challenge events**

Fundraising events that raise money through sponsorship of a person or group of people who intend to complete a specific task, for example, run a marathon, climb a mountain, or cycle or walk a certain distance.

### **charitable institution**

A charity (registered or unregistered) or voluntary organisation established for purposes which may not be strictly charitable in law, but which are philanthropic or benevolent.

See also 'philanthropic and benevolent organisations'.

### **charitable purpose**

A purpose which is considered to be charitable in terms of the relevant laws of England and Wales, Scotland or Northern Ireland.

### **charity**

A body which is recognised as a charity under the relevant laws of England and Wales, Scotland or Northern Ireland.

### **charity short codes**

A range of text messaging short-number sequences in the 70000 to 70999 range designed to be easier for donors to read, remember and make a donation through than full telephone numbers. Service providers and charities use this range to make their donation facility distinguishable from other short-code services.

### **cold-calling**

Making an uninvited visit or phone call where the person or charitable institution calling or visiting has no previous relationship with the person they are contacting.

### **collecting box**

A box or other container for cash contributions.



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**collection**

- A collection of money or sale of articles on the public highway.
- A collection of money or other property house-to-house.
- A collection of money or other property on private land.

See also 'house-to-house collection' and 'street collection'.

**collector**

A person collecting in a house-to-house collection, street collection or collection on private land.

See also 'collection'.

**commercial partner or partnership (referred to as a 'corporate partnership' in previous versions of the code)**

A partnership between a charitable institution and a commercial company where the commercial company provides money, skills or other resources to the charitable institution. If part of the support provided involves the commercial partner directly asking for donations, they will fall within the definition of a 'third-party fundraiser', and in some cases, a 'commercial participator'.

See also 'commercial participator'.

**commercial participator**

Any person who carries on a business (other than a professional fundraising business) and, in the course of that business, promotes goods or services on the basis that it will make donations to a charitable institution. (This does not include a connected company.) An example is a mineral-water producer who donates 10 pence to a charity for every bottle of water it sells.

Fundraising businesses and businesses connected to charitable institutions are not commercial participators.

**connected company**

A company owned or controlled by one or more charitable institutions.

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## consent

In relation to personal data, 'consent' is defined by the ICO as: 'any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her'.

This means that the person must show they agree to you using their data, using a clear, positive action (for example by ticking an unticked opt-in box).

For more information please see [www.ico.org.uk](http://www.ico.org.uk).

## consultant

A person a charitable institution uses to provide fundraising services and who, as part of that service, is directly involved in asking for donations.

A consultant who provides fundraising services in England and Wales or Scotland in return for payment is likely to fall within the legal definition of a 'professional fundraiser'. See also 'professional fundraiser'.

A consultant who provides fundraising services without payment is likely to fall within the legal definition of a 'volunteer'. See also 'volunteer'.

## cookies

Small text files that are downloaded onto a device such as a computer or smartphone when the user visits a website. Cookies allow the website to recognise that user's device and store some information about the user's preferences or use of the website.

## crowdfunding

This is where a person, a group of people, or a commercial institution (a crowdfunder) raises money for charitable, philanthropic or benevolent purposes, but not linked directly to a charitable institution's bank account. This may mean that money is passed to the crowdfunder who then gives it to a charitable institution or spends it on a personal cause, for example, helping a friend or relative with medical expenses.

## D

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## digital platform

A website or application run by a commercial company, not-for-profit organisation, charitable institution or by a person, which asks for money or other property for charitable, philanthropic or benevolent purposes or makes it possible for other people or organisations to do this as an 'online fundraising platform'. See also 'online fundraising platform'.

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**direct marketing**

Sending (by whatever means) any advertising or marketing material which is directed to particular people.

**Disclosure and Barring Service, Disclosure Scotland, Access NI**

Organisations that carry out criminal-record checks to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

**donation**

A gift of money or other property that is voluntarily given and accepted without expecting or receiving something in return.

If a person receives a benefit in return for a gift, the gift may not be considered a donation for tax purposes, but may still be covered by the code as fundraising.

**donor**

A person who gives a donation to a charitable institution.

**due diligence**

The steps taken to assess another organisation or person the charitable institution is considering a partnership or association with. These steps are taken to protect the charitable institution against damage to their reputation or finances.

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**E****enclosures**

Items or materials put inside a direct marketing communication sent by mail as well as the main communication itself. These can include, for example, incentives to encourage people to donate, information about the work of the organisation, or thank-you gifts. Whether enclosures are sent as stand-alone items or within other fundraising material, they are covered by the same standards as other fundraising material sent by post.

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### **exemption order**

An order which means that a licence (from one or more local licensing authorities) is not needed for a house-to-house collection.

- In England and Wales, a National Exemption Order
- In Scotland, an Exempt Promoter Direction
- In Northern Ireland an Exemption Order

## **F**

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### **face-to-face fundraising**

Asking people for a commitment to donate by direct debit or standing order, or collecting personal data so people can make donations at a future date. Fundraisers using this method of fundraising speak to people face-to-face on the street, by knocking on people's doors (house-to-house), or on private land which the public have access to, such as shopping centres.

### **fulfilment house**

An organisation that collects or processes (or both) donations on behalf of a charitable institution.

### **fundraiser**

A charitable institution (or a member of its staff) or third-party fundraiser who asks for money or other property for a charitable institution or for charitable, benevolent or philanthropic purposes.

See also 'third-party fundraiser'.

### **fundraising**

Asking for money or other property for charitable, benevolent or philanthropic purposes.

### **fundraising business**

A person or organisation (such as a fundraising agency or consultant) whose only or main business is to raise money for charitable institution.

### **Fundraising Preference Service**

A website-based service which we run to help members of the public control the communications they receive from certain charities. By signing up to the service, members of the public can choose to stop receiving direct marketing by email, telephone, addressed post or text messages, directed to them personally, from selected charitable institutions.

See also 'direct marketing'.

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## G

### Gift Aid

A scheme which allows registered charities to reclaim basic-rate tax on donations made by UK taxpayers who agree to this, effectively increasing the amount of their donations.

Taxpayers who pay tax above the basic rate may also be able to reclaim some tax on the donation.

### governing body

The body responsible for governing a charitable institution – that is, making sure it is run effectively and properly and is meeting its overall purposes as set out in its governing document. The governing body may be called a board, management committee, council, executive committee, board of trustees, board of governors or something else.

### governing documents

Documents which set out a charitable institution's objectives or purposes and how it is to be managed. You can find more information on governing documents on the [Knowhow Nonprofit website](#) or, in Scotland, the [SCVO website](#).

### grant-making body

An organisation that provides funding (known as a grant) to another organisation to carry out particular charitable, philanthropic or benevolent purposes agreed between both organisations.

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## H

### house-to-house collections

Collections which are made by a collector going from house-to-house (including business premises), collecting money or other property for charitable, philanthropic or benevolent purposes whether or not anything is given in exchange for the money or other property. Sometimes these collections are referred to as door-to-door collections.

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## I

### identifiable telephone number

A geographic or premium phone number which can be called back and is not a withheld or private number.

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### **in-aid-of volunteer**

A volunteer who is raising funds either on their own or with others for a charitable institution independently of the charitable institution. In some cases, the charitable institution will know about the activity before it receives the money raised and in other cases it may not. If it does, the volunteer will sometimes use materials provided by the charitable institution.

(See also 'on-behalf-of volunteer'.)

## **L**

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### **legacy**

A gift left to a charitable institution by a person in their will.

### **legitimate interest**

A lawful basis (valid legal reason) for processing personal data which, in some circumstances, allows a charitable institution to send direct marketing as long as the person who will receive it hasn't said 'no' and it does not cause harm or override a person's privacy rights. This means that a charitable institution's interests in sending direct marketing must be balanced against the interests of the person who will receive it.

For a fuller definition of 'legitimate interest', see [www.ico.org.uk](http://www.ico.org.uk).

If a charitable institution has a legitimate interest to send direct marketing, it must still meet the separate legal rules on sending direct marketing electronically, including by email and text message.

### **licensing authority**

An authority with the legal power to allow a particular fundraising activity for which authorisation is needed by law, such as a house-to-house or street collection. Licensing authorities usually have powers to set and enforce the conditions under which the activity takes place.

### **lottery**

A type of gambling which meets the following criteria.

- People pay to enter
- Prizes are allocated either totally by chance or, if the way prizes are allocated involves a series of processes, the first of those processes relies totally on chance

Raffles, tombolas and sweepstakes are types of lottery.

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## M

### **Mailing Preference Service (MPS)**

A service that allows people to have their names and home addresses (in the UK) removed from lists used for direct mail that has not been requested. It is supported by Royal Mail, trade associations and the Information Commissioner's Office (ICO).

### **model regulations (England and Wales only)**

Regulations which apply to street collections and which are set out in the Charitable Collections (Transitional Provisions) Order 1974 which many, but not all, local authorities follow.

### **mystery shopping**

Where agents are employed to pose as ordinary members of the public, interact with fundraisers and observe the fundraising team to make sure standards of quality are being met.

## O

### **on-behalf-of volunteer**

A volunteer who works with and who is under the instruction of a charitable institution to raise funds on its behalf and in its name.

See also 'volunteer' and 'in-aid-of volunteer'.

### **online fundraising platform**

A website or application run by a commercial company, not-for-profit organisation, charitable institution or a person, which charitable institutions can use for fundraising or which people or organisations can use for crowdfunding for charitable, philanthropic and benevolent purposes. Online fundraising platforms make it possible for donors to give to charitable, philanthropic and benevolent causes using their computers, smartphones and other electronic devices, and using their credit cards, debit cards or digital wallets (a feature on devices which allows a person to make electronic transactions, for example by PayPal).

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### **open access land**

In England and Wales only, the Countryside and Rights of Way Act 2000 (CROW Act) normally gives the public the right to access land mapped as 'open country' (mountain, moor, heath and down) or registered as 'common land'. These areas are known as 'open access land'.

### **opt in**

Where a person gives consent by showing, through a clear positive action (for example, by ticking an unticked box), that they want a particular organisation or group of organisations to contact them.

(See also 'opt out'.)

### **opt out**

Where a person asks to stop receiving communications from a particular organisation or group of organisations (either to stop receiving any communications or just those sent by a specific communication method).

(See also 'opt in'.)

### **organiser (in relation to package holidays and tours)**

A person who puts together package trips (including transport and accommodation) and sells or offers them for sale, whether directly or through a retailer.

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## **P**

### **payroll giving**

A way of giving money through the Pay As You Earn (PAYE) system from someone's wages or pension to charity without paying tax on it. Payroll giving is sometimes called 'give as you earn' or 'workplace giving'.

### **payroll-giving agency**

A charity recognised by HMRC for the purpose of handling payroll giving.

### **personal data**

Information or data which relates to a living person who can be identified directly or indirectly by referring to:

- an identifier such as their name, an identification number, location details or an online identifier such as an IP address, or
- one or more factors which are specific to the person's physical, physiological, genetic, mental, economic, cultural or social identity.



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**philanthropic or benevolent organisation**

A voluntary organisation established for philanthropic or benevolent purposes which is not charitable in law but is charitable in nature. These organisations act for the public benefit and their assets must be distributed (during the life of the organisation and when it is wound up) for the purposes for which it was set up.

**premium-rate text message**

A text-messaging service that charges a fee which is paid through a person's phone bill. This is usually a subscription service.

**privacy information**

Information that tells a person what an organisation will do with their personal data. Privacy information is often given in the form of a privacy notice.

**private land**

Land which is privately owned. This may include land which the public have access to, such as shopping centres.

**private site**

Private land (see also 'private land') for which there is an agreement with the property owner or manager for fundraising to take place on the private site. Where an agreement is in place, it usually applies to commercially owned land which the public have access to, such as shopping centres.

**proceeds**

All money and all other property given in response to an appeal.

**processing data**

An operation or set of operations which is carried out on personal data, or on sets of personal data, such as:

- collecting, recording, organising, structuring or storing it;
- adapting or altering it;
- retrieving, consulting on or using it;
- transmitting, sharing or otherwise making it available to others;
- aligning or combining it with other information; or
- restricting, erasing or destroying it.

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**professional fundraiser**

A person carrying on a fundraising business as defined in the law of England and Wales, or Scotland.

**promoter**

In relation to a public charitable collection, means:

- a person who (whether alone or with others and whether they are paid or not) organises or controls the way the collection is run, or
- if the above bullet point doesn't apply, any person who acts as a collector in the collection.

See also 'collector'.

**public charitable collection**

A collection for charitable, philanthropic or benevolent purposes carried out on the street, in a public place or house-to-house.

**public place (England and Wales)**

Any highway or any other place which at the time of the fundraising the public are allowed access to, and which is not in a building (other than public areas in stations, airports, shopping precincts or similar). It does not include any place which the public can only access with a ticket or after paying an entrance fee, or as a result of permission being given for the fundraising.

**public place (Northern Ireland)**

Any street, road or highway and any place which, at the time of the fundraising, the public or any section of the public has access to. This can be because they have a public right to be there, because they have paid an entrance fee or because they have been given permission (direct or otherwise).

**public place (Scotland)**

Any place (whether a thoroughfare or not) which the public have unrestricted access to. It includes the doorways or entrances of premises next to the public place and any shared passageway, close, court, stairs, garden or yard relevant to any tenement or group of separately owned houses.

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## R

### reasonable adjustments

Reasonable adjustments are explained in the Equality Act 2010. Reasonable adjustments might include changing the layout or format of information to make it more accessible, or making sure an event is accessible to people with disabilities.

### receipt book

A book of consecutively numbered detachable receipts, with counterfoils or duplicates with matching numbers.

### registered charity

An organisation registered with the regulatory body for charities for the country they are based in. In the UK, the regulatory bodies are:

- the Charity Commission in England and Wales;
- the Office of the Scottish Charity Regulator in Scotland; and
- the Charity Commission for Northern Ireland in Northern Ireland.

## S

### silent call

A call where a person hears nothing on the end of the line when they answer the phone and has no way of knowing whether anyone is at the other end.

### small-donation rules

The rules of the 'Gift Aid Small Donations Scheme' (sometimes referred to as GASDS).

### solicitation statement

A statement which professional fundraisers, commercial participators and, for public collections, certain staff of charitable institutions have to make by law, explaining how the fundraising will benefit the charity. What information the statement needs to include depends on the circumstances. For more information:

- for fundraising in England and Wales, see sections 60, 60A and 61 of the Charities Act 1992, and
- for fundraising in Scotland, see the OSCR website.

There is no legal requirement to make a solicitation statement when fundraising in Northern Ireland.

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## **SORP**

Statement of Recommended Practice, which sets out how charities should prepare their annual accounts and report on their finances. For more details, see [www.charitySORP.org](http://www.charitySORP.org).

## **static collection**

A collection using collecting boxes which stay in one place – either on the floor or on counters in places such as shops, pubs, hotels, hospitals and reception areas.

## **street (England and Wales, and Northern Ireland)**

Includes any highway and any public bridge, road, lane, footpath, square, court, alley or passageway, whether a thoroughfare or not.

## **street (Scotland)**

Has the same meaning as ‘public place (Scotland)’.

## **street collections**

Collections of money or other property made on a street or selling items on a street for charitable, philanthropic or benevolent purposes.

## **T**

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### **tainted donation**

A donation made where the donor (or a connected person) makes a donation but the main purpose (or one of the main purposes) is to gain a financial advantage, directly or indirectly, from the charity which received the donation. If a donation is considered to be ‘tainted’ by HMRC, the donor will lose tax relief on the donation and may be liable for any tax the charity reclaims.

See [HMRC guidance](#) for more information.

### **Telephone Preference Service (TPS)**

The official register on which people can record their preference not to receive sales or marketing calls they have not requested. By law, all organisations (including charities, voluntary organisations and political parties) must not make these calls to numbers registered on the TPS, unless they have consent from the person who will be receiving the call.

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**testator**

Someone who makes a will.

**third-party fundraiser**

Organisations or people that a charitable institution has authorised to fundraise on its behalf. They may be volunteers, professional fundraisers or commercial partners.

See also 'fundraiser' and 'fundraising'.

**trading subsidiary**

Any non-charitable trading company owned by one or more charitable institutions to carry on a trade (usually non-charitable) on behalf of the charitable institution or institutions. Trading subsidiaries are often set up to generate an income for the charitable institution.

**trust or foundation fundraising**

The process of asking for support from trusts and foundations that make grants for charitable, philanthropic or benevolent purposes.

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**U****unsubscribe**

To cancel a subscription to a service or communication.

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**V****volunteer**

A third-party fundraiser who, without payment or other significant benefit (not including expenses), raises money or is involved in a fundraising activity for a charitable institution.

See also 'in-aid-of' volunteer and 'on-behalf-of' volunteer.

**vulnerable circumstances**

A state in which a person is especially susceptible to harm due to their personal circumstances. It is a state which can vary from day-to-day, which may affect the person's behaviour or decisions and needs a flexible response.