



FUNDRAISING  
REGULATOR

# Code of Fundraising Practice

**V1.6**

updated 08/05/18

## What is the Code of Fundraising Practice?

The Code of Fundraising Practice outlines the standards expected of all charitable fundraising organisations across the UK. The standards were originally developed by the fundraising community through the work of the Institute of Fundraising (IoF) and Public Fundraising Association (PFRA). The Fundraising Regulator recognises the important contribution made by the Institute of Fundraising in developing the Code of Fundraising Practice.

In 2015, a [Review of Fundraising Regulation](#) chaired by Sir Stuart Etherington recommended that responsibility for the Code be transferred to a new Fundraising Regulator to safeguard the independence of fundraising regulation.

The Code was transferred to the Fundraising Regulator at its launch on **7th July 2016**. Decisions on changes to the Code are made by the Fundraising Regulator's [Standards Committee](#) in consultation with the fundraising community.

The conduct of fundraising organisations **MUST\*** be legal and **MUST** be open, honest and respectful.

We have used “**MUST\***” and “**MUST NOT\***” where there is a legal requirement and “**MUST**” and “**MUST NOT**”(no asterisk) where there is no legal requirement but the Fundraising Regulator is treating the issue as a professional standard to be met by fundraising organisations.

## How are complaints about fundraising handled?

Any complaints about a charity's fundraising should be made to the [Fundraising Regulator](#). The Fundraising Regulator acts as an independent public complaints system for the self-regulatory scheme, offering a system of redress for the public.

The Fundraising Regulator also sets the professional standards for face to face and door to door fundraising (the street and door to door rulebooks).

Any complaints about the professional conduct of a fundraising organisation should be made through the Fundraising Regulator's [complaints procedure](#).

The Fundraising Regulator will consider complaints against the law and guidance in force at the date of the incident which is the subject of the complaint.

*Please note that the Code and the guidance will specify the date on which the law and best practice was used for the purposes of the Code and guidance. When planning and reviewing fundraising you should check whether changes have been made to the law and best practice which, although not yet incorporated into the Code and the guidance, will apply to your campaign or activities.*

## Legal references



**Bates Wells Braithwaite** *Bates Wells & Braithwaite London LLP have verified that each “MUST\*” and “MUST NOT\*” reflects a legal requirement in respect of the law in England and Wales as at June 2012.*



**TURCAN CONNELL** *Turcan Connell have verified that each “MUST\*” and “MUST NOT\*” reflects a legal requirement in respect of the law in Scotland as at June 2012.*



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*Edwards and Co. Solicitors have verified that each “MUST\*” and “MUST NOT\*” reflects a legal requirement in respect of the law in Northern Ireland as at June 2012.*

# Sections of the Code

The conduct of fundraising organisations MUST\* be legal and MUST be open, honest and respectful. Each section of the Code is detailed below:

[1.0 Key principles and behaviours](#)

[2.0 Working with Volunteers](#)

[3.0 Working with Children](#)

[4.0 Working with Third Parties](#)

[5.0 Fundraising Communications and Techniques](#)

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[7.0 Reciprocal Mailing](#)

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[11.0 Major Donors](#)

[12.0 Corporate Partnerships](#)

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[14.0 Fundraising through Payroll Giving](#)

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# 1.0 Key Principles and Behaviours

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 1.1 Legal References in this Section

- General charity law principles
- [Gift Aid Rules](#)
- [Charities Act 1992](#)
- [Charities Act 2011](#)
- [Charities and Trustee Investment \(Scotland\) Act 2005](#)
- [Charities \(Protection and Social Investment\) Act 2016](#)

The work of all fundraising organisations will be **Legal, Open, Honest** and **Respectful**.

## 1.2 General Principles

a) A legal principle underpinning fundraising is that all funds raised for a particular cause **MUST\*** be used for that particular cause.

b) Fundraisers **MUST NOT** denigrate other individuals or organisations.

c) Organisations **MUST NOT** exaggerate facts relating to the potential beneficiary.

d) Organisations **MUST NOT** take advantage of mistakes made by the donor.

e) i) Fundraisers **MUST** take all reasonable steps to treat a donor fairly, enabling them to make an informed decision about any donation. This **MUST** include taking into account the needs of any potential donor who may be in a vulnerable circumstance or require additional care and support to make an informed decision.

ii) Fundraisers **MUST NOT** exploit the credulity, lack of knowledge, apparent need for care and support or vulnerable circumstance of any donor at any point in time. There is more information available about responding to the needs of people in vulnerable circumstances and helping donors to make informed decisions in the Institute of Fundraising's ['Treating Donors Fairly' Guidance](#).

iii) If a fundraiser knows or has reasonable grounds for believing that an individual lacks capacity to make a decision to donate, a donation **MUST NOT** be taken.

iv) A donation given by someone who lacked capacity at the time of donating **MUST\*** be returned.

f) Organisations **MUST NOT** engage in fundraising which:

- Is an unreasonable intrusion on a person's privacy;
- Is unreasonably persistent;

Or

- Places undue pressure on a person to donate.

g) Fundraisers **MUST NOT** continue to ask an individual for support if:

- that person clearly indicates – by word or gesture – that they do not wish to continue to engage; or
- they have reasonable grounds for believing, in the course of their engagement with the individual, that they are in vulnerable circumstances which mean they are unable to make an informed decision to donate.

h) Charities that are legally required to have their accounts audited under [section 144 of the Charities Act 2011](#) **MUST\*** state in their trustee Annual Report (as specified within [section 13 of the Charities \(Protection and Social Investment\) Act 2016](#)):

- The charity's approach to fundraising activity, and whether a professional fundraiser or commercial participator was used.
- Details of any voluntary regulatory fundraising schemes or standards which the charity or anyone fundraising on its behalf has agreed to.
- Any failure to comply with a scheme or standard cited.
- Whether and how the charity monitored fundraising activities carried out on its behalf.
- How many complaints the charity or anyone acting on its behalf has received about fundraising for the charity.
- What the charity has done to protect vulnerable people and others from unreasonable intrusion on a person's privacy, unreasonably persistent approaches or undue pressure to give, in the course of or in connection with fundraising for the charity.

Further guidance can be found [here](#).

i) Trustees of Charities (or for Charities without a Trustee Board, those who serve on its governing body) **MUST** have regard to national guidance in overseeing the fundraising activities of their Charity and any third parties fundraising on the charity's behalf.

- For Charities registered in England and Wales, guidance is found in the [Charity Governance Code](#) and in the Charity Commission's [CC20 guidance for trustees](#), [essential trustee guide \(CC3\)](#) and the [welcome pack for new trustees](#)

- For Charities registered in Scotland, the following OSCR guidance provides information on the legal requirements of Scottish Charity law in relation to fundraising and Charity Trustee duties:
  - [Interim Fundraising Guidance](#)
  - [Guidance and good practice for Charity Trustees](#)
- For Charities registered in Northern Ireland, the [Code of Good Governance](#) and the Charity Commission for Northern Ireland's "[Running your Charity](#)" [Guidance](#) set out the principles and key elements of good governance for the boards of voluntary and community organisations.

## 1.3 The Donation

### 1.3.1 Requesting Donations

- When using donor information in a case study or any other type of publicity, organisations **MUST\*** comply with any duties of confidentiality that they have and comply with [data protection law](#) if publishing a case study that includes information that could identify a donor.
- Fundraisers **MUST NOT** encourage existing donors in any way to change an existing charitable donation to another fundraising organisation.
- [The Charities Act 1992](#), and [Charities and Trustee Investment \(Scotland\) Act 2005](#) allow charities to obtain a court order preventing unauthorised fundraising where any individual is using fundraising methods to which the charity objects or where the charity believes that an individual is not a fit and proper person to raise funds on its behalf.

### 1.3.2 Acceptance and Refusal of Donations

- The trustees (and their delegates) **MUST\*** act in the best interests of the charity when deciding to [accept or refuse](#) a particular donation.

### 1.3.3 Rewards/ Incentives and Benefit Packages

It is common for organisations to engage a donor by offering them benefits related to the size and frequency of the gift.

- Fundraising organisations **MUST** ensure that benefits are appropriate for the organisation to be giving, and proportionate to the size of the gift.
- Fundraisers **MUST** be aware of when benefits nullify potential 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 small donation rules, organisations **MUST NOT\*** attempt to reclaim tax on the sum.

#### 1.4 After the Donation

a) Any specified reporting requirements to which a donation is subject **MUST\*** be complied with.

b) Fundraising organisations **MUST\*** only make a Gift Aid reclaim in respect of a donation if all of the Gift Aid conditions are met. One of these is that a donor's Gift Aid declaration **MUST\*** comply with the new guidance issued by HMRC setting out the information that declarations are required to include from 1st January 2013. Where a donation is not eligible for Gift Aid and the organisation wishes to make a claim under the small donations rules, it **MUST ONLY\*** do so if all of the small donation conditions are satisfied.

c) Fundraising organisations **MUST\*** ensure that accepted donations are used to support the cause in accordance with the conditions attached to the donation, which may arise from donor's stipulations or representations made by the charity as to the uses of the funds.

#### 1.5 Use of Funds

[The law in relation to changing the terms of a gift is complex](#) and organisations should obtain advice from legal advisers or the [Charity Commission](#) / [Office of the Scottish Charity Regulator \(OSCR\)](#) before seeking to change the terms, even if there is donor consent. In Scotland, in cases where donor consent cannot be obtained, OSCR can permit the restricted fund under which a gift is held to be 'reorganised' if certain conditions are met, but only where it is not possible to ascertain the donor's wishes in relation to the proposed change.

a) If an appeal is being run for a particular purpose, fundraisers **MUST** include a statement indicating what will happen to funds received if the total funds raised are insufficient or exceed the target.

#### 1.6 Complaints

a) Organisations **MUST** have a clear and publicly available complaints procedure which **MUST** also apply to any Third Parties fundraising on their behalf.

b) When dealing with complaints organisations **MUST** ensure that:

i) complaints are investigated thoroughly and objectively to establish the facts of the case, avoiding undue delay; and



- ii) complaints are responded to fairly, proportionately and appropriately.
- c) Organisations **MUST** regularly review any lessons to be learnt from complaints and use that learning to inform future fundraising activity.
- d) Fundraising organisations **MUST** have a clear and published internal procedure for members of staff and volunteers to report any concerns they may have regarding their organisation's fundraising practice. This could be either a standalone policy or part of a wider whistleblowing policy made available to staff and volunteers. In either case, the policy **MUST** include:
  - i) the type of issues that can be raised and the process for doing so;
  - ii) how the person raising a concern will be protected from victimisation and harassment;
  - iii) how and what the organisation will do in response to receiving such information; and
  - iv) how an individual can escalate their concerns on fundraising practice to the Fundraising Regulator or the [Scottish Fundraising Standards Panel](#) in the event that internal consideration is not possible.

Further information and guidance on Complaint Handling from the Fundraising Regulator can be found [here](#)

## 1.7 Returning Donations

- a) Fundraising organisations which are charities **MUST\*** not return donations [unless certain criteria are fulfilled](#).

For all other fundraising organisations, donations **MUST** only be refunded in line with any policies or in exceptional circumstances. It may not be lawful to return a donation and fundraisers **MUST** take advice from legal advisers or the [Charity Commission](#) / [OSCR](#) before doing so.

Further Guidance can be found in the Institute of Fundraising's [Acceptance, refusal and return: A practical guide to dealing with donations](#)

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# 2.0 Working with Volunteers

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 2.1 Legal References for this Section

- [Data Protection Act 1998](#)
- [Safeguarding Vulnerable Groups Act 2006](#)
- [Health & Safety at Work Act 1974](#)
- [Management of Health & Safety at Work Regulations 1999](#)
- [Charities Act 2006](#)
- [Charities and Trustee Investment \(Scotland\) Act 2005](#)
- [Licensing Act 2003](#)
- [Gambling Act 2005](#)
- [Equality Act 2010](#)
- [Health and Safety at Work \(Northern Ireland\) Order 1978](#)
- [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007](#)
- [Management of Health and Safety at Work Regulations \(Northern Ireland\) 2000](#)
- [Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985](#)
- [Betting and Lotteries \(Northern Ireland\) Order 1994](#)

## 2.2 Volunteers

### 2.2.1 Introduction

#### 2.2.1.1 Definitions and Types of Volunteers

For the purposes of this Code, a volunteer fundraiser is someone who, without payment or other material benefit (excluding reimbursement of expenses), raises money or engages in a fundraising activity for a fundraising organisation or other philanthropic or benevolent institution.

#### 2.2.1.2 Distinguishing 'on Behalf of' and 'in Aid of' Volunteers

There are two distinct categories of volunteers:

##### 1) On behalf of:

If a volunteer is 'on behalf of', they will have been appointed by the organisation to act on its behalf and the organisation will be responsible for his or her acts. An 'on behalf of' relationship offers volunteers more support from the organisation. From the organisation's perspective, it offers the organisation more control over a volunteer's activities but the organisation also then becomes responsible for acts carried out by the volunteer as an agent of the organisation.

2) In aid of:

A volunteer acting 'in aid of' an organisation is raising funds but acting independently of the organisation. An organisation will often not know about the volunteer's acts. This will give volunteer fundraisers control over, and complete responsibility for the fundraising activity. Although the organisation therefore has less control, if fundraising methods are used of which the charity disapproves, action can be taken to prevent the fundraising.

The more interaction and involvement with 'in aid of' fundraisers, the more likely the relationship could be seen as 'on behalf of'.

a) Organisations **MUST** ensure that the information and support which is provided to volunteers is appropriate for the type of relationship that exists.

### 2.2.1.3 When is a 'Volunteer' not a Volunteer?

a) Some "volunteers" may be fundraising in order to raise their profile and/or to attract customers by associating themselves or their brand with the organisation. If the "volunteer" arrangement falls within the definition of [professional fundraiser](#) or [commercial participator](#), there are legal obligations which **MUST\*** be complied with.

## 2.2.2 Issues Related to All Types of Volunteers

### 2.2.2.1 Initial Considerations

a) Organisations **MUST** store volunteers' personal contact information and this storage **MUST\*** comply with the [Data Protection Act 1998](#).

b) Organisations **MUST\*** comply with legal duties concerning the use of [Disclosure and Barring Service](#), [Disclosure Scotland](#) or [Access NI checks](#).

c) Organisations **MUST NOT** discriminate on grounds of race, sex, sexual orientation, religion or belief, age, disability, pregnancy or maternity, or gender reassignment when recruiting and managing volunteer fundraisers unless there are sound ethical or necessary reasons for doing so.

d) Volunteers **MUST** have only their out-of-pocket expenses reimbursed.

### 2.2.2.2 Handling of Funds Raised

a) Organisations **MUST** make it clear to all volunteers that anyone raising money **MUST\*** ensure that the organisation receives all that money.

### 2.2.3 Specific Considerations when Working with ‘on Behalf of’ Volunteers

a) There is a range of legal obligations placed on organisations in respect of health and safety, some of which apply to volunteers. The key obligations are:

i. Organisations **MUST\*** conduct their organisation in such a way as to ensure, so far as is reasonably practicable, that volunteer fundraisers are not exposed to risks to their health and safety (the specific obligations are set out in the [Health and Safety at Work Act 1974](#) or, in Northern Ireland, the [Health and Safety at Work \(Northern Ireland\) Order 1978](#)).

ii. Organisations **MUST\*** carry out appropriate risk assessments and (if there are over 5 employees) **MUST\*** keep clear records of all risk assessments and training undertaken.

iii. Organisations **MUST\*** make and give effect to appropriate arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

iv. Organisations **MUST\*** audit the adequacy of their risk assessment procedures.

v. Organisations **MUST\*** appoint one or more competent person(s) to implement the measures needed to comply with health and safety law.

b) Where appropriate, organisations **MUST** check the suitability and credentials of volunteer fundraisers to act as responsible people on the organisation's behalf and in the case of house to house collections **MUST\*** carry out due diligence to check if collectors are fit and proper persons.

c) Organisations **MUST** provide such training and support as may be needed to enable volunteer fundraisers to effectively carry out their role in a legal, open, honest and respectful manner.

### 2.2.4 Specific Considerations when Working with ‘in Aid of’ Volunteers

When discussing ‘in aid of’ relationships, all standards apply only where the organisation has been made aware of the fundraising activity in advance of its occurrence.

a) Organisations **MUST** make it clear that any arrangement where fundraising is undertaken independently of the organisation is ‘[in aid of](#)’ and that the organisation will not accept any responsibility or liability for these events.

[\*There is more information about working with volunteers in the Institute of Fundraising’s - Volunteer Fundraising Guidance\*](#)

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## 3.0 Working with Children

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

### 3.1 Introduction

The age at which children may engage in fundraising activities may vary by type of activity, geographic location and law.

### 3.2 In Advance of Any Activity/Event

#### 3.2.1 Age Limits and Permissions

There are some activities which cannot be undertaken by children and young people without adult involvement (the age restriction depends on the activity and location). These include:

- [Street and house to house collections](#)
- [Raffles](#)
- [An event involving alcohol](#)

a) Organisations **MUST\*** get explicit parent or guardian consent to collect data until children have capacity to give fully informed consent themselves. Many organisations view the age of capacity as 12, however, no definitive age is set out in legislation and whether consent is needed may depend on the context in which data is being collected/used.

b) Any information collected from anyone under 14 years of age **MUST NOT** be disclosed without consent from a parent or guardian.

c) When organising fundraising activities, organisations **MUST\*** abide by any relevant age limits imposed by legislation.

d) There will be times when organisations **MUST\*** undertake the [Disclosure and Barring Service](#) (in England and Wales), [Disclosure Scotland](#) (in Scotland) or and [Access NI](#) (in Northern Ireland) checks for adults working with children.

e) Contact with children in or near school premises **MUST** be made only with the prior knowledge and approval of the Head Teacher or a member of the school's staff designated by the Head Teacher and according to procedures agreed with them.

f) Organisations **MUST** ensure that the fundraiser/organisation's representative understands their responsibility and the actions it must take in relation to activity organisers, the children participating, and the parents/guardians of any participating children.

### **3.3 Undertaking the Fundraising Activity**

a) Organisations **MUST** employ all best efforts to avoid soliciting regular donations, such as Direct Debits, from under 18s.

b) Organisations **MUST** gain a parent's or guardian's permission before photographing or publishing photographs of their children.

c) Organisations **MUST** provide children and parents/guardians with guidance on how to undertake fundraising safely and legally.

### **3.4 After the Event/Activity**

a) All monies received **MUST** be acknowledged promptly by the organisation.

[There is more information about fundraising with children in the Institute of Fundriasing's -Fundraising in Schools guidance.](#)

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## 4.0 Working with Third Parties

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

### 4.1 Legal References for this Section:

- [Charities Act 1992](#);
- [Charitable Institutions \(Fund-Raising\) Regulations 1994](#);
- [Data Protection Act 1998](#);
- General law of Confidentiality;
- [Charities and Trustees Investment \(Scotland\) Act 2005](#)
- [Charities and Benevolent Fundraising Regulations \(Scotland\) 2009](#)
- [Charities \(Protection and Social Investment\) Act 2016](#)

### 4.2 Introduction

a) This section outlines standards involved in working with third parties, including consultants, freelance fundraisers, agencies and suppliers, as well as the standards expected of them. Organisations **MUST** require the adherence of third parties to the Code.

b) Organisations **MUST** make all reasonable efforts and exercise due diligence to ensure the ongoing compliance of third party fundraising organisations with the Code and their legal requirements.

Reasonableness for the purpose of this Code requires the organisation to deliver effective and proportionate monitoring. Means of evidencing reasonable efforts to ensure effective ongoing compliance may include (but are not limited to):

- ensuring the values of the organisation are reflected in the policies, performance objectives, indicators and, where applicable, the incentives of the third party fundraising organisation;
- establishing a named individual with lead responsibility for monitoring compliance;
- developing clear reporting requirements with the third party fundraising organisation and regularly reviewing progress against pre-agreed performance, quality assurance and compliance targets;
- defining how monitoring will be carried out, including establishing an appropriate frequency for monitoring based on an assessment of the risk posed by the fundraising activity;
- approving and regularly reviewing agency compliance training, including frequently observing the delivery of this training onsite;
- authorising content and materials for training;

- regularly conducting (and documenting the results of) call monitoring, mystery shopping, site visits and/or shadowing with third party fundraisers;
- setting out a clear policy for handling complaints and feedback, including the time frames, procedure for escalating and raising internally, and the transfer of information between the charity and the third- party fundraising organisation;
- setting out a clear internal procedure for members of staff and volunteers to report any concerns they may have regarding their organisation’s fundraising practice; and
- agreeing an action plan with the third party fundraising organisation to address any concerns, where these are identified.

Further information on assessing risk can be found in the Charity Commission [CC26 guidance on charities and managing risk](#) and in the NCVO’s [How-to guide](#).

Further information on implementing monitoring arrangements with third party fundraising organisations can be found in the IoF’s guide “[Successful Partnerships for sustainable fundraising](#)”.

c) Organisations **MUST** require that any agency or third party that they work with complies with the requirements of the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 as set out in the Code, including the requirements of the Telephone Preference Service, regardless of the country or legal jurisdiction in which the agency is based or operating. *In some circumstances this is a legal requirement for charities, but in other circumstances it may not be. Please see [Legal Appendices guidance at L14.9](#) for further details.*

d) Before soliciting money or other property a “professional fundraiser” **MUST\*** have a written agreement in place with the Client. *Please see [Legal Appendices guidance at L10](#) for further details.*

e) Each time a “professional fundraiser” solicits money or other property, they **MUST\*** make a disclosure (or solicitation) statement. *Please see [Legal Appendices guidance at L10](#) for further details.* In all cases, the disclosure (or solicitation) statement **MUST** be made either before money is given by the donor or before any financial details relevant to the transaction are requested by the fundraiser (whichever is the sooner).

f) When acting solely as a Consultant or Fundraiser in Northern Ireland, such statements and contracts **MUST** be made (future regulations in Northern Ireland may make this a legal requirement).

g) Organisations **MUST** require any agency or third party they work with to inform them of any notice received by the agency or third party to cease or not commence direct marketing from (or on behalf of) an individual.

h) Organisations **MUST** require any agency or third party they work with to comply with any notice or request from (or on behalf of) an individual to cease within a reasonable period (meaning as soon as is practicable, but in any event not exceeding 28 days), or not begin to process that individual’s personal data for the



purpose of direct marketing. This includes any such notices or requests made through the [Fundraising Preference Service](#).

### 4.3 Definitions

For the purposes of this section these definitions apply:

“Fundraising Services” means the soliciting of donations or promises of donations for charitable, benevolent or philanthropic purposes in return for a reward.

“Consultant” or “Freelance Fundraiser” is used here to mean an individual, partnership, company or other business which is providing services to an organisation in relation to fundraising.

“Client” is used here to mean the organisation to which services are being provided by the Consultant or Freelance Fundraiser.

“Professional Fundraiser” A Consultant or Freelance Fundraiser who provides Fundraising Services in England and Wales or Scotland is likely to fall within the legal definition of “professional fundraiser”.

### 4.4 Pre-Contract

a) Consultants and Freelance Fundraisers **MUST** only claim experience, qualifications and achievements that can be substantiated.

### 4.5 Contracts/ Written Agreements

Regulation can differ between the three UK legal jurisdictions and caution should be exercised to ensure correct compliance in each area.

a) If the Consultant/Freelance Fundraiser falls within the definition in England and Wales or Scotland of “professional fundraiser”, see below for contract requirements which **MUST\*** be complied with. Otherwise an agreement or Contract **MUST** be in place between the Consultant/Freelance Fundraiser and the organisation it is providing services to.

b) Fundraising agreements between charities registered in England and Wales and professional fundraisers **MUST\*** include: iii) how compliance with the agreement will be monitored by the charity as specified within section 13 of the Charities (Protection and Social Investment) Act 2016.

Means of evidencing this requirement may include (but are not limited to) the compliance monitoring measures set out in **4.2b** above. The agreement should have

adequate provision for the charity to read and, where necessary, review any relevant policies and procedures that the third party has in place which are relevant for the protection of the public. This may include (but is not limited to): policies on people in vulnerable circumstances; complaints handling and whistleblowing; training materials; and the staff code of conduct.

c) Fundraising agreements between Charities registered in England and Wales and professional fundraisers **MUST\*** include:

- details of any voluntary regulatory fundraising scheme or standard that the professional fundraiser undertakes to be bound by;
- how the commercial organisation will protect the public from unreasonable intrusion on a person's privacy, unreasonably persistent approaches or undue pressure to give; and
- how compliance with the agreement will be monitored by the charity, as specified within [section 13 of the Charities \(Protection and Social Investment\) Act 2016](#).

Further guidance can be found [here](#).

d) The agreement **MUST** include clear and realistic expectations of the activities to be undertaken, budget, resources, timings and the possible outcomes.

e) Review procedures **MUST** appear in the agreement.

f) In England and Wales, the Client **MUST\*** consider performance at these reviews and decide whether further action is appropriate (such as invoking penalty clauses, or reviewing the agreement).

g) In Scotland, the method by which a contract may be varied **MUST\*** be provided for in the contract where the contract is with a professional fundraiser or commercial participator and **MUST** include similar provisions requiring the variation to be in writing and preventing an unfavourable variation from being imposed by one party alone.

h) In Northern Ireland there is no equivalent legislation in place to date which governs contracts or written arrangements with third parties. Northern Ireland organisations may adopt the good practice of the other jurisdictions.

#### **4.6 Fees**

a) Consultants/Freelance Fundraisers **MUST** state the actual amount and/or basis of remuneration in any proposal or agreement and make completely clear all fees, expenses and other associated costs, the basis or range upon which fees will be based and the payment timescale.

b) If a Consultant/Freelance Fundraiser falls within the definition of “professional fundraiser”, the agreement **MUST\*** include details of the fees and expenses the professional fundraiser will be paid.

c) Consultants/Freelance Fundraisers **MUST NOT** be remunerated by commission or commission-only methods, unless certain criteria are fulfilled.

d) Any allowance for variation of payment levels **MUST** be clearly justified by reference to the particular circumstances and to include a variation mechanism allowing the Client the option to terminate before a variation takes effect.

#### **4.7 Conflicts of Interest**

a) Each party **MUST** alert the other party if either is aware of a potential conflict of interest, whether perceived or actual, and **MUST NOT** represent conflicting or competing interests without the express consent of the parties concerned and after full disclosure of the facts.

#### **4.8 Confidentiality**

a) Consultants/ Freelance Fundraisers **MUST NOT\*** disclose any information of a confidential nature obtained during their relationship with a Client, unless it is information within the public domain or information which may otherwise be legally disclosed.

b) Terms governing conditions of confidence and what constitutes confidential information **MUST** be stipulated as part of the written agreement between the Consultant/ Freelance Fundraiser and Client.

For more information on selecting and using online giving platforms, see The Institute of Fundraising’s [‘Making the Most of Digital Donations’](#) guidance.

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# 5.0 Fundraising Communications and Techniques

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 5.1 Legal References in this Section:

- [Data Protection Act 1998](#)
- [Malicious Communications Act 1988](#)
- [Communications Act 2003 \(s.127\)](#)
- [Copyright, Designs & Patents Act 1988](#)
- [Companies Act 2006](#)
- [Charities Act 2011](#)
- General law of Confidentiality
- [Charitable Institutions \(Fund-Raising\) Regulations 1994](#)
- [Charities and Benevolent Fundraising \(Scotland\) Regulations 2009](#)
- [Charities Act 1992](#)
- [Charities and Trustee Investment \(Scotland\) Act 2005](#)
- General principles of charity law
- [Equality Act 2010](#)
- [Privacy and Electronic Communications \(EC Directive\) Regulations 2003 \(as amended\)](#)
- [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013.](#)
- [Electronic Commerce \(EC Directive\) Regulations 2002](#)
- [Provision of Services Regulations 2009](#)
- [Gambling Act 2005](#)
- [Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985](#)
- [Betting and Lotteries \(Northern Ireland\) Order 1994](#)

## 5.2 General Principles

a) Data protection is an important issue for all fundraisers. Fundraising organisations **MUST\*** comply with [all legal requirements relating to data protection](#). In addition, organisations **MUST** keep up to date with and have regard to relevant [guidance from the Information Commissioner](#).

b) Organisations **MUST NOT\*** send a communication that is indecent or grossly offensive and that is intended to cause distress or anxiety.

c) Organisations **MUST\*** ensure that materials adhere to copyright laws and that permission is obtained from the rights holders for the use of images, logos etc.

d) Organisations **MUST\*** ensure literature includes all legally required information, for example, registered charity status or number, full company name and registered office if applicable.

e) Organisations **MUST\*** ensure that materials do not imply money is for a restricted purpose (such as buying a goat, or helping a particular child) when it may be used for different purposes or for general funds.

f) If organisations are fundraising in partnership with one or more organisations, organisations **MUST** state how monies will be allocated between the organisations.

g) Fundraising organisations **MUST** comply with the [CAP \(Committee of Advertising Practice\) Code](#) and [BCAP \(Broadcasting Committee of Advertising Practice\)](#) and ensure all advertisements are legal, decent, honest and truthful.

h) Fundraising communications **MUST NOT** mislead, or be clearly likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.

i) Before distribution, fundraisers **MUST** ensure that there is evidence to prove all claims, whether direct or implied, are capable of objective substantiation.

j) Particular care **MUST** be taken to avoid causing offence on the grounds of race, age, religion, sex, sexual orientation or disability. This will vary according to the context, medium, audience, product and prevailing standards of decency.

k) Fundraising organisations **MUST** be able to justify the use of potentially shocking images, and give warnings of such material.

l) Organisations **MUST** be able to justify the frequency of contact, balancing the desire to communicate with not overwhelming/bombarding recipients.

m) Organisations **MUST** respect donor's requests around the frequency of contact, and make it easy to communicate these requests.

n) Fundraising materials **MUST NOT** pressurise potential donors but can use reasonable persuasion.

o) All permission statements (opt-in or opt-out wording to gain consent for marketing purposes) displayed in fundraising materials **MUST** be at least the same font size as the larger of (i) any text asking for the recipient's personal details, or (ii) any text specifying the donation amount. If there is no text asking for personal details or

specifying donation amount, any permission statements **MUST** be in the minimum font size of 10. [Click here for the Institute of Fundraising's Managing Preferences guidance on this.](#)

p) Organisations **MUST\*** either cease within a reasonable period (meaning as soon as is practicable, but in any event not exceeding 28 days) or not begin to process an individual's personal data for the purpose of direct marketing where they receive notice from or on behalf of an individual to do so. This may include:

- notice in writing from (or on behalf of) an individual, whether or not described as a formal section 11 request (under the [Data Protection Act 1998](#))
- notice from (or on behalf of) an individual submitted through [the Fundraising Preference Service](#) or notice from the [Fundraising Preference Service](#) that such a request has been made.
- Any other indication of wishes from an individual (or made on their behalf) that that they do not wish to be contacted for direct marketing purposes, such as via preferences and unsubscribe mechanisms.

### 5.3 Case Studies

a) If using real life case studies, fundraising organisations **MUST\*** comply with the requirements of the Data Protection Act 1998 and **MUST NOT\*** disclose information received in circumstances where a legal duty to keep the information confidential arises.

b) Even if not required by law, fundraising organisations **MUST** obtain permission for case studies, where practical.

c) If organisations change elements of case studies or use real examples to inspire a case study, this **MUST** be made clear and organisations **MUST** be able to prove that the case study is representative.

### 5.4 Use of Personal Data

a) Fundraising organisations will usually need to be registered (or "notified") under the Data Protection Act 1998 with which they **MUST\*** comply. Click [here for guidance](#) on this.

b) All personal data **MUST\*** be collected fairly and lawfully.

c) The retention and use of personal data in any research **MUST\*** comply with data protection law.

d) Organisations **MUST\*** maintain good data hygiene practices (removing incorrect/incomplete information from your data) to ensure donor information is accurate, reflects donors' communication preferences and is retained only for as long as necessary.

e) Organisations **MUST NOT\*** send unsolicited marketing communications to consumers if explicit consent is required and has not been obtained

f) Organisations **MUST\*** comply with any duties of confidentiality they have.

g) If any marketing, such as a questionnaire/survey, is also used to collect personal data, it **MUST\*** be made clear, along with the identity of the data controller, the purposes for which personal data are to be held and whether any disclosures to third parties will be made.

h) Organisations **MUST** be able to show that all necessary steps have been taken to ensure that:

- communications are suitable for those targeted;
- databases are accurate and up-to-date and, if rented, bought etc., have been run against the most relevant suppression list(s);
- anyone who has been notified as deceased is not mailed again; and
- data has, if possible, been through a deceased suppression service in order to remove deceased supporters.

i) Where it can be identified or attributed to one or more individuals, all information gathered **MUST** be treated as confidential.

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## 6.0 Direct Marketing

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

### 6.1 Definition

“Direct marketing” is defined in the [Data Protection Act 1998](#) as the communication of advertising or marketing materials to particular individuals, and includes the sale of goods and services and the promotion of an organisation's aims and ideals.

“Direct Mail” is a form of direct marketing. It is any print-based fundraising material delivered primarily through the letterbox and encompasses mail (both solicited and unsolicited), door-drops and inserts delivered within a third-party publication.

### 6.2 Preparation

a) Organisations **MUST** ensure cold mailing lists have been run through the Mailing Preference Service to ensure they are not sending mail to those who have requested not to receive it.

### 6.3 Enclosures in Direct Mail Packs

Enclosures can include incentives to encourage donations, inserts that demonstrate the work of the organisation or thank you gifts.

a) Fundraising organisations **MUST** consider the safety of any enclosures.

b) Fundraising organisations **MUST** be able to demonstrate that the purpose of an enclosure was to enhance the message and/or the emotional engagement in the cause and not to generate a donation primarily because of financial guilt or to cause embarrassment.

c) Fundraising organisations **MUST NOT** use enclosures that might cause inconvenience in achieving delivery, unless the donor knows or has requested it.

### 6.4 Chain Letters

a) The promotion of chain letters **MUST** be discouraged.



## 6.5 Selling/renting marketing lists

a) Organisations **MUST NOT** share personal data for payment with any other organisation for that organisation's marketing or fundraising purposes.

*6.5 a) does not apply to the sharing of personal data between organisations which are within a federated structure and/or where one controls the other or both are under common control.*

b) Even if not for payment, organisations **MUST NOT** share the personal data of an individual with any other organisation for that organisation's marketing or fundraising purposes without the explicit consent of that individual to the sharing of the personal data with that other organisation or other specified types of organisation.

*6.5 b) does not apply to the sharing of personal data between organisations which are within a federated structure and/or where one controls the other or both are under common control. Subparagraph 6.5 b) does not apply where the personal data are being shared with a data processor (organisations that are, under written contract, acting on behalf of another organisation e.g. professional fundraisers, data cleansers, printing houses etc.) and where the requirements with regard to data processing under the [Data Protection Act 1998](#) (including the written contract setting requirements as to security) are also met*

*"Explicit consent" under subparagraph 6.5 b) means that an individual must have provided a positive indication that they agree to their personal data being shared. This could take the form of ticking an opt-in box, or another action that signifies agreement, such as oral confirmation, or the provision of contact details where the individual has been clearly informed that by giving these details they agree to their data being shared.*

For further information on the legal requirements relating to data protection please see the [legal appendix on Data Protection](#) and the [guidance available from the Information Commissioner's Office](#).

## 6.6 Managing communication preferences

a) Organisations **MUST** include on all fundraising communications sent to a named individual, clearly displayed details of how the recipient can, by a single step, opt-out of receiving such communications from the charity on whose behalf the communication was sent. This **MUST** be at least the same font size as the larger of (i) any text asking for the recipient's personal details, or (ii) any text specifying the donation amount. If there is no text asking for personal details or specifying donation amount, this information **MUST** be in the minimum font size of 10.

[Click here to read FAQs on this. In the Institute of Fundraising's Managing Preferences](#)

[There is more information about Direct Mail in the Institute of Fundraising's Direct Mail guidance](#) Back to [contents page](#)

# 7.0 Reciprocal Mailing

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 7.1 Introduction

a) All list owners engaging in reciprocal mailing **MUST** subscribe to the [Mailing Preference Service \(MPS\)](#) as a protection to their supporters' rights to privacy.

## 7.2 Initial Considerations

a) Organisations **MUST\*** observe the provisions of the [Data Protection Act 1998](#), including those around permissions to pass on donors' data.

b) To undertake reciprocal mailings, organisations **MUST\*** be registered with the [Information Commissioner's Office \(ICO\)](#) for the following 3 purposes:

- advertising, marketing and public relations
- fundraising
- trading/sharing in personal information

## 7.3 Processes/Agreement

a) Organisations holding a manual index **MUST\*** satisfy their reciprocal mailing partner about the standard and quality of their list.

b) Organisations engaging in reciprocal mailing **MUST\*** exchange written agreement of the terms and conditions of the mailings, which should include the list content, dates for use, levels of list cleanliness and content of the mailing.

## 7.4 Mailing

a) Any variation in agreement which permits reciprocal mailings to be used more than once **MUST** contain full details of the agreement, including:

- details of which part of the list were exchanged on all similar reciprocal mailings with other fundraising organisations or other organisations within a mutually agreed period of time; and
- the type and number of supporters on the list - i.e. those paying by direct debit, cash, bankers order, covenant etc.

b) All returned 'non-deliverable' items and information concerning changes to the supporter file **MUST** be passed back promptly to the list owner for file maintenance purposes.

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# 8.0 Telephone

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 8.1 Introduction

This section will cover all fundraising calls that are made to solicit both financial and other forms of donations, such as volunteering time, but will not cover administrative/informative or “thank you” calls (although these standards may be used as guidance for those calls). Fundraising calls will also include any voicemails left to potential donors.

## 8.2 Preparation and Procedure

### 8.2.1 Working with Suppliers

- a) If the supplier falls within the definition of a professional fundraiser, the supplier **MUST\*** have a written agreement with the organisation.
- b) If using external suppliers who do not fall within the definition of a professional fundraiser, an agreement **MUST** be in place.
- c) Agreements with professional fundraisers **MUST\*** include details of the payment/expenses the professional fundraiser will receive together with the other matters legally required to be included in agreements with professional fundraisers.
- d) Agreements with suppliers who are not professional fundraisers **MUST** include this information.

### 8.2.2 Target Audience Exclusion

- a) The following categories of potential telephone recipients **MUST\*** be excluded:
  - all those who have registered with the Telephone Preference Service, unless they have notified the fundraising organisation they will consent to receiving calls from them (see 8.2.3)
  - any individual who, on a previous occasion, has registered an objection to the use of the telephone for soliciting gifts or support for that particular fundraising organisation;
  - and any person who has written to the fundraising organisation to ask it not to use their contact details for marketing purposes or has otherwise asked not to be called.

- b) A recipient **MUST NOT\*** be called using an automated dialling system (i.e. a system that can dial a series of numbers automatically and play a recorded message) unless the recipient has consented to this.
- c) Any person known to be under the age of 16 **MUST NOT** be called.
- d) Also, organisations **MUST NOT** generate telephone fundraising calls by random digit dialling, whether the dialling is manual or by computer.

### 8.2.3 The Telephone Preference Service

The [Telephone Preference Service \(TPS\)](#) and [Corporate Telephone Preference Service \(CTPS\)](#) allows individuals or companies to register their telephone numbers to indicate that they do not wish to receive unsolicited sales and marketing telephone calls.

- a) Organisations **MUST\*** always check telephone numbers against TPS/CTPS before making calls.
- b) Organisations **MUST NOT\*** make direct marketing calls to Telephone Preference Service (TPS)/Corporate TPS (CTPS)-registered numbers unless the person who registered the number has notified the organisation that they are happy to receive calls for the time being.

The Information Commissioner's Office has [produced guidance on direct marketing](#), including the definition of 'consent' and the key points for consent to be valid.

Administrative calls differ from marketing calls in that they are not made with the specific purpose of soliciting a donation/sale, and so are outside of the Regulations.

- c) Marketing calls under the guise of administrative calls **MUST NOT\*** be made.
- d) Telephone fundraising agencies carrying out fundraising calls on behalf of a charity **MUST** have an up to date [TPS Assured certification](#) or be in the process of applying.

*Please see Institute of Fundraising's [Frequently Asked Questions](#).*

### 8.2.4 Pre-Call Contact

- a) All responses to contact which indicate that the potential recipient of the call does not wish to receive it **MUST\*** be complied with.

## 8.2.5 Calling from an identifiable number

a) Fundraising agencies **MUST** make every fundraising call using a telephone number which can be identified by the recipient and to which the recipient can return the call.

Charities, wherever possible, **MUST** make every fundraising call using a telephone number which can be identified by the recipient and to which the recipient can return the call.

## 8.3 During the Call

### 8.3.1 Key Requirements

a) Fundraisers **MUST\*** make [appropriate disclosure statements](#).

b) If the telephone call is first contact with a donor, the caller **MUST** ask if the recipient consents to being contacted at that time. If the recipient asks not to be called again, the fundraising organisation **MUST\*** comply with the request

c) Organisations **MUST\*** identify themselves when making a direct marketing call.

d) If asked, organisations **MUST\*** provide a valid business address or free phone telephone number that recipients can use to contact the organisation.

e) If an organisation uses a subcontractor (such as an external telephone fundraiser who falls within the definition of [professional fundraiser](#)), then the subcontractor **MUST** inform contacts of the identity of the organisation on whose behalf the calls are being made along with details of the sub-contractor's remuneration in connection with the appeal.

f) In England and Wales, the [appropriate statement](#) **MUST\*** be made during each call and a written statement must be sent within seven days of any payment being made by the donor to the [professional fundraiser](#).

g) In Scotland, information about remuneration given by a [professional fundraiser](#) during a call **MUST\*** be available in writing and offered to the donor.

h) Organisations **MUST\*** have a [written agreement](#) in place requiring subcontractors to comply with relevant data protection law.

i) Organisations **MUST\*** avoid making silent calls and do all in their power to ensure donors do not think they are receiving nuisance calls. [Ofcom's Revised Statement on the Persistent Misuse of an Electronic Communications Network or Service](#) gives details about what is considered a silent call and how organisations can lessen the chance of it happening. This includes:

- limiting abandoned calls to a rate not exceeding 3% of all live calls made on each individual campaign over a 24 hour period;

- playing a brief information message giving details about any call answered before an agent is available;
- providing call line identification on outbound calls, so that potential donors are able to make a return call;
- a 72 hour period before a telephone number receiving an abandoned call may be called again without the guaranteed presence of an agent; and
- unanswered calls must ring for a minimum of 15 seconds.

j) Calls **MUST NOT** be made after 9pm, unless requested by the recipient.

k) Organisations **MUST** make clear that the call is seeking financial or other forms of support.

l) In addition to the rule outlined in section 1.2, fundraisers **MUST NOT**, at any point in a telephone call, be unreasonably persistent or place undue pressure on the recipient to donate, and in particular, **MUST NOT** ask for a financial contribution more than three times during that call.

m) Fundraisers **MUST NOT** continue a call if, at any point during the call, the recipient gives a clear indication they do not want the call to continue.

### 8.3.2 Voicemail

a) If leaving a voicemail, fundraisers **MUST** make it clear what the purpose of the call is.

## 8.4 After the Call

### 8.4.1 Fulfilment of Donations

a) The fundraiser **MUST\*** in [certain circumstances write to the donor repeating the disclosure statement and notifying the donor of their right to a refund.](#)

b) Refunds **MUST\*** be given where donors correctly exercise their rights to a refund.

c) If donations are paid to the external telephone fundraiser, they **MUST\*** be paid on to the fundraising organisation as soon as reasonably practicable after receipt and, in any event, no later than 28 days after receipt (unless, in England and Wales, a different time frame has been agreed).

d) Any written information soliciting donations sent by a charity as a result of the call **MUST\*** include a [statement that the organisation is a charity.](#)

e) In Scotland this **MUST\*** also [contain the full name and charity number.](#)

f) Where donors' details are stored, fundraisers **MUST\*** ensure compliance with the requirements of the [Data Protection Act 1998](#).

*[There is more information about telephone fundraising in the Institute of Fundraising's Telephone Fundraising guidance](#)*

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# 9.0 Digital Media

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 9.1 Accessibility and Usability

Being accessible means using the latest web technologies to accommodate the needs of as many users as possible.

a) All digital platforms **MUST\*** comply with the [Equality Act 2010](#) and organisations **MUST\*** make "reasonable adjustments" to accommodate the needs of all users.

Information about accessibility can be found from the [Royal National Institute of Blind People's \(RNIB\) web access centre](#) or the World Wide Web Consortium, the [W3C](#).

## 9.2 Organisations' Own Websites

### 9.2.1 Information to be Provided

As well as their main websites, fundraising organisations may have other related websites or micro sites created for specific campaigns or events. This section covers all websites created by organisations.

a) Organisations **MUST\*** have specified information on their website about their status, dependant on certain conditions.

b) Organisations **MUST** ensure that a contact number and/or an email address are easy to locate.

### 9.2.2 Data

a) The Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended in 2011), contains rules about the use of cookies (text files storing an individual's information) on websites. Organisations **MUST\*** ensure they abide by the Regulations and wider data protection requirements.

b) Organisations **MUST\*** notify website users about the website's use of cookies, and in particular **MUST\*** do so in a suitably prominent and understandable manner to ensure that the user's consent to the use of cookies is informed.

c) Requests to unsubscribe **MUST** be addressed in a timely fashion. The Information Commissioner's Office has suggested time limits which can be found on their website.

d) Organisations **MUST** clearly explain data capture and use, for example through a privacy policy or statement.

e) All information about data capture and use **MUST** be easily accessible from the website homepage and any page which collects personal data.

### 9.2.3 Content

a) Organisations **MUST\*** have the necessary intellectual property permissions to use or share digital content, such as images, audio, video etc.

## 9.3 Donations and e-commerce

### 9.3.1 Electronic Payments

There are a number of standards that apply to electronic payments, such as the [Payment Card Industry-Data Security Standard \(PCI- DSS\)](#) for processing card transactions, and the Direct Debit Guarantee for processing Direct Debits.

### 9.3.2 Online Raffles and Lotteries

a) Organisations **MUST\*** comply with the [Gambling Act 2005](#) or, in Northern Ireland, the [Betting, Gaming, Lotteries and Amusements \(NI\) Order 1985](#)

For more information on the different types of lotteries and the rules that apply to each type, please see the [L13 Raffles and Lotteries](#) or speak to the [Gambling Commission](#), who regulate this area.

For Northern Ireland, please consult the [Department for Social Development Social Policy Unit](#) and its [Information Leaflet - The Law on Lotteries in Northern Ireland](#).

### 9.3.3 Online Trading, Trading Subsidiaries and e-commerce

a) Organisations **MUST\*** only trade if their governing documents allow it.

b) Organisations **MUST\*** comply with all relevant consumer law and digital commerce legislation including the [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#).

c) If merchandise sales or fundraising events (such as challenge events) are carried out through a trading subsidiary, fundraising organisations **MUST\*** make this clear on relevant communications or web pages.

d) Organisations **MUST\*** ensure that descriptions and images of goods are sufficiently accurate that donors are not misled about what they are buying.

e) Organisations **MUST\*** have the necessary intellectual property permissions to use or share digital content, such as images, audio, video etc.

f) Organisations **MUST\*** comply with legal requirements as to delivery, cancellation, refunds and returns and **MUST** have policies that set out processes and timings for potential customers.

For more information, please see the Institute of Fundraising's [guidance](#) on this.

## 9.4 Working with Third Parties

a) [Professional fundraisers](#) and [commercial participators](#) working on digital media projects **MUST\*** have written agreements in place with the charity and **MUST\*** make the [appropriate statements](#).

b) When not legally required to have written agreements, organisations **MUST** still have contracts or agreements in place.

c) Organisations **MUST** undertake due diligence on both the financial and reputational dealings of potential partners before agreements are put in place. This is especially important when working with non-UK based third parties who are not bound by UK law.

d) If placing fundraising content on a third party's platform, fundraising organisations **MUST** apply the same due diligence as if it was on their own website. For more information on selecting and using online giving platforms, see the Institute of Fundraising's '[Making the Most of Digital Donations](#)' guidance.

## 9.5 Social Media

a) Organisations **MUST** ensure that usernames and passwords for their social media accounts are only available to trusted individuals.

## 9.6 Mobile Devices and Platforms

### 9.6.1 Definitions

Mobile may consist of separate platforms/channels or simply using a mobile device to access a version of an organisation's website. Mobile devices may include but are not limited to smartphones, tablets, Personal Digital Assistant (PDA), and gaming consoles.

### 9.6.2 SMS and MMS

- a) Organisations using Premium SMS **MUST\*** register with the [Phone-Paid Services Authority \(PSA\) and](#) comply with its [Code of Practice](#) unless exempt services (as defined in the PhonePayPlus Code).
- b) Organisations **MUST\*** only send marketing messages to individuals' mobile phones where those individuals have previously notified the organisations that they consent to receiving such communications.
- c) Organisations **MUST\*** make the registration process for messaging clear on all forms of relevant documentation including websites and **MUST\*** include procedures for unsubscribing on all marketing messages.
- d) Organisations **MUST\*** make the cost of premium rate messages clear to donors and **MUST** explain to donors how and when they will be billed.
- e) Organisations **MUST\*** follow data protection rules and rules set out in the [Privacy and Electronic Communications Regulations 2003](#) when parental/bill payers' consent is required.
- f) Reply by SMS **MUST** be an option for opting-out and be clear in all communications.
- g) Organisations **MUST** use a simple opt-out message.
- h) Users **MUST\*** be able to exercise their opt-out choice from any message, free of charge (except for the costs of the transmission of the refusal).
- i) For competitions and prize draws, organisations **MUST** provide a clear and simple method of accessing any terms and conditions and **MUST** publish the identity of the promoter.

### 9.6.3 Charity Short Codes

- a) When receiving donations by SMS, organisations **MUST** use [Charity Short Codes](#) (approved 5 number codes that can be rented by fundraising organisations to identify donations and pass on the VAT content to the organisation.)

## 9.7 Email

### 9.7.1 Data Protection

- a) Fundraising organisations **MUST\*** comply with the requirements of the [Data Protection Act](#) and **MUST NOT\*** disclose information obtained in situations where a legal duty to keep information confidential arises.
- b) Organisations **MUST\*** provide a valid address for opt-out requests.

### 9.7.2 Content

- a) Emails **MUST** carry a statement confirming the status of an organisation, and **MUST\*** do so [in certain circumstances](#).
- b) Organisations **MUST NOT** send bulk emails from named individual's email accounts.
- c) Organisations **MUST** use a simple opt-out message.

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# 10.0 Trusts

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 10.1 Legal References in this Section

General charity law principles.

## 10.2 Introduction

“Trust Fundraising” refers to the process of asking for support from trusts and foundations that make grants for charitable/philanthropic purposes.

“Foundation” is, for the purposes of this Code, synonymous with ‘Trust’.

a) This Code covers all forms of Trust Fundraising, but when applying for statutory funding, such as EU, UK government or local authority grants, there may be additional rules and these **MUST** be followed in conjunction with this code.

## 10.3 Preparation and Procedures

a) Mass mailings and cold calling to trusts **MUST** generally be avoided, except under exceptional circumstances, for example a national disaster or emergency.

b) Organisations **MUST** obtain permission of referees before submitting applications, with the referee seeing the application before submission.

## 10.4 The Application

a) All applications **MUST\*** fit within the applicant organisation’s own objectives.

### 10.4.1 After Applications Have Been Accepted/ Rejected

a) Administrative requirements of the trust regarding payment **MUST** be strictly adhered to (the standard will depend on terms and conditions of the application) and **MUST\*** be followed where they form conditions under a contract.

b) Any conditions attached to the grants, such as the trust having management, advisory or other inputs into the work, or requirements for public acknowledgement

of the trust's support, **MUST** be understood and agreed to by both parties before the grants are formally accepted.

c) When applications are rejected, appeals or attempts to persuade trusts to reconsider **MUST** only be made in rare circumstances - such as where there are clear mistakes of fact, or trusts have specified appeal procedures.

## 10.5 Reporting and Accounting

### 10.5.1 Reporting

a) If changes are being planned about how grants may be spent which differ from what was originally proposed, the trust's approval **MUST\*** first be obtained in writing if that is a requirement of the trust's funding.

b) All reporting guidelines and requirements **MUST** be closely followed and **MUST\*** be followed where they form conditions under a grant contract.

c) If there are potentially serious problems with the funded work (for example, the likelihood of significant delays to timetables or real risk of failure to complete), trusts **MUST** be informed as early as possible, and kept informed as matters develop and any notification requirements in the contract **MUST\*** be followed.

### 10.5.2 Accounting

a) All legal accounting requirements **MUST\*** be followed, and the [Statement of Recommended Practice \(SORP\)](#) **MUST\*** be followed.

b) When appeals for specific projects are so successful that not all money can be allocated to them, or projects do not go ahead organisations **MUST** obtain [Charity Commission](#) / [OSCR](#) advice regarding the use or return of remaining funds.

*[There is more information about trusts and grant fundraising in the Institute of Fundraising's Grant Making Trusts guidance](#)*

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# 11.0 Major Donors

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 11.1 Legal References in this Section

- General trust law principles
- [Proceeds of Crime Act 2002](#)

## 11.2 Definitions

"Major donor" is an individual or family with the potential to make or procure a gift which would have a significant impact on the work of the organisation.

## 11.3 Money Laundering

a) Trustees **MUST\*** take reasonable steps to assess and manage risks to their organisation's activities, beneficiaries, property, work and reputation. Money laundering and adverse publicity about a donor are examples of how an organisation could be exposed to criminal liability and suffer reputational damage.

b) Organisations **MUST** undertake due diligence on both the financial and reputational dealings of potential partners before donations are accepted.

c) Fundraisers **MUST** be aware of the Proceeds of Crime Act 2002 and that it applies to money or other property that has been obtained through conduct that is criminal under UK law, even if obtained in ways that are legal in another country.

## 11.4 General Requirements

a) If giving gifts to a major donor, fundraising organisations **MUST** ensure that any benefits are appropriate for the organisation to be giving, and proportionate to the size of the donation received.

Note that some benefits may cause Gift Aid relief to be lost and others may be subject to the tainted donations rules.

b) Where talking about finances and financial benefits, fundraisers **MUST** inform donors that they are not in a position to offer formal financial advice.

*There is more information about major donor fundraising in the Institute of Fundraising's [Major Donor guidance](#).*



# 12.0 Corporate Partnerships

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 12.1 Legal References for this Section

- [Charities Act 1992](#)
- [Charities \(Protection and Social Investment\) Act 2016](#)
- General charity law principles

## 12.2 Definition

"Corporate Partnership" is a partnership between a fundraising organisation and a commercial entity, where the commercial entity provides money, skills or other resources to the fundraising organisation.

## 12.3 Preparation

- a) Organisations **MUST** carry out a process of due diligence, proportionate to the scale of the relationship, before engaging in a partnership.
- b) Organisations **MUST** ensure there are no conflicts of interest, or potential conflicts of interest relating to the partnership.

## 12.4 Written Agreements

- a) If the arrangement is such that the corporate partner falls within the definition of a '[commercial participator](#)' then the commercial participator **MUST\*** have a written agreement in place with the institution it proposes to benefit and certain information **MUST\*** be included in this.
- b) Fundraising agreements between Charities registered in England and Wales and [commercial participators](#) **MUST\*** include:
  - details of any voluntary regulatory fundraising scheme or standard that the commercial participator undertakes to be bound by;
  - how the commercial organisation will protect the public from unreasonable intrusion on a person's privacy, unreasonably persistent approaches or undue pressure to give; and

- how compliance with the agreement will be monitored by the charity, as specified within [section 13 of the Charities \(Protection and Social Investment\) Act 2016](#).

Further guidance can be found [here](#).

c) Variation **MUST\*** be in accordance with the term in the agreement specifying how any variation should take effect.

d) In Scotland, the method by which a contract may be varied **MUST\*** be provided for in the contract where the contract is with a [professional fundraiser](#) or [commercial participator](#) and **MUST** include similar provisions requiring the variation to be in writing and preventing an unfavourable variation from being imposed by one party alone.

e) [Commercial Participators](#) **MUST\*** make a disclosure statement which includes, among other things, the name(s) of benefitting organisations and the amount of funds they will receive.

f) In other situations, if goods or services are being sold during the course of the partnership, there **MUST** be a written agreement governing the relationship between the company and the fundraising organisation/trading subsidiary concerned (even where this is not strictly required by the relevant Acts). This **MUST** be approved and understood by all parties.

g) The agreement **MUST** be considered, negotiated and agreed by authorised representatives of both parties before its commencement.

h) Where a Scottish Charity has an agreement covering the activities of a commercial partner operating in England and Wales, or the reverse situation applies, it **MUST\*** ensure that the contract satisfies the legislative requirements of the country where the fundraising will be carried out and **MUST** ensure that the contract covers potential liabilities under all jurisdictions.

i) Review procedures **MUST** appear in the agreement and fundraising organisations **MUST** consider performance at these reviews and decide whether further action is appropriate (such as invoking penalty clauses, or reviewing the agreement).

## 12.5 Legal and Tax Issues

a) In England and Wales, if a fundraising organisation is a registered charity (with an income of over £10,000) it **MUST\*** [state on letters and other documents that contain a request for money or other property for the benefit of the charity](#) its name and the

fact that it is registered. In practice this usually means stating its charity registration number.

b) In Scotland, any literature from either party that is issued on behalf of the charity **MUST\*** [refer to the charity's name, any other name it is known by, its charitable status, and its charity number.](#)

c) Charities which are also registered companies **MUST\*** also [comply with the relevant company law requirements](#). This includes the requirement to have the word “limited” in the organisation’s name (unless an exemption applies – in which case status may be indicated by stating “a company limited by guarantee”) together with registered company number, place of registration (e.g. England and Wales, Scotland or Northern Ireland) and its registered office address. It **MUST** also name either all its trustees/directors or none.

d) As a result of the partnership, situations may arise where fundraising organisations or the corporate partner may have to pay tax or VAT. Organisations **MUST\*** ensure that any liabilities are paid.

[\*There is more information about corporate partnerships in the Institute of Fundraising's Charities Working with Business guidance.\*](#)

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# 13.0 Raffles and Lotteries

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 13.1 Legal References for this Section

- [Gambling Act 2005](#)
- [Gambling Commission's Licence Conditions and Codes of Practice](#)
- [Betting, Gaming, Lotteries and Amusements \(NI\) Order 1985](#)

## 13.2 Key Points and Legalities

a) This area is one of the most heavily regulated fundraising activities, but also one of the most popular. The range of regulation is [set out in detail in the Legal Appendices](#) and **MUST\*** be followed.

b) Additional [standards are included in the Legal Appendices](#) and **MUST** be observed.

*The [Gambling Commission](#) should be referred to for queries and up-to-date advice.*

*[There is more information about raffles and lotteries in the Institute of Fundraisings Raffles and Lotteries guidance](#)*

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# 14.0 Fundraising through Payroll Giving

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 14.1 Legal References for this Section:

- [Data Protection Act 1998](#)
- [Charitable Deductions \(Approved Schemes\) Regulations 1986](#)
- [Charities Act 1992](#)
- [HMRC payroll giving rules](#)

## 14.2 Introduction and Initial Considerations

Fundraising within the workplace is varied in form and is subject to both direct legislation and self-regulation. This Code specifically addresses donations made directly from an employee's salary. This could take the form of:

- [Payroll Giving](#): a tax-effective scheme whereby the donation is taken from an employee's pay before tax is deducted; or
- Post-tax salary donations: where employees' donations are taken directly from their salary after tax has been deducted.

### 14.2.1 Definitions

"Payroll Giving Agency (PGA)": agencies that are registered charities who receive the donation from the employer and forward it to the beneficiary organisation on behalf of the donor.

"Fundraising Organisation": all charities, social enterprises, universities, NHS trusts etc who will benefit from fundraising efforts made by their staff or external fundraisers.

"External Fundraisers": are either individual professional fundraisers or professional fundraising organisations (PFO's) that are hired by the beneficiary organisation to undertake fundraising on their behalf.

"Fundraiser" Any individual soliciting donations (including External Fundraisers).

### 14.2.2 Pre-Tax Payroll Giving

a) Employers using the payroll giving scheme **MUST\*** have a written agreement in place with a PGA.

b) Fundraising Organisations/employers **MUST\*** not offer benefits for donations received via pre-tax Payroll Giving, or overrule an individual employee's decision as to where their donation goes.

c) Fundraising Organisations **MUST\*** comply with the requirements contained in [The Charitable Deductions \(Approved Schemes\) Regulations 1986](#) and subsequent amendments.

d) If Fundraising Organisations/employers are going to highlight the different levels of tax relief, they **MUST** ensure fundraisers have up to date information from HMRC.

e) Fundraisers **MUST** ensure that donors are aware that, following a Payroll Giving promotion, they are still free to elect to give to any fundraising organisation of their choice.

### **14.2.3 Post-Tax Donations from Salary**

a) Where External Fundraisers who fall within the legal definition of a '[professional fundraiser](#)' are used to take and process the donation or claim back the tax, a written agreement with the fundraising organisation **MUST\*** be in place.

## **14.3 Promoting Committed Giving in the Workplace**

### **14.3.1 Establishing the Fundraising Relationship**

a) Before any approaches to solicit donations are made to a group of employees, Fundraisers or Fundraising Organisations **MUST** agree conditions of access with the relevant employer.

### **14.3.2 Fundraising Activity in the Workplace**

a) Fundraising Organisations **MUST\*** ensure that all materials, especially completed donor forms, are held securely and in accordance with their obligations under the [Data Protection Act 1998](#).

b) Fundraisers **MUST\*** wear photo identity badges provided by the organiser of the activity, or the relevant fundraising organisation(s) in a visible place at all times.

c) Fundraising Organisations **MUST** ensure that sufficient safeguards exist and are followed throughout the solicitation process to avoid pressurising potential donors, though reasonable persuasion can be used.

d) Fundraisers **MUST** ensure that donors are aware that they have the right to terminate an agreement to donate to a Fundraising Organisation at any point.

### 14.3.3 Using External Fundraisers

This section should be read in conjunction with the section Working with Third Parties

- a) External Fundraisers (who fall within the definition of a [‘commercial participator’](#) or [‘professional fundraiser’](#)) hired by Fundraising Organisations **MUST\*** have a written agreement with the organisation they are representing.
- b) External Fundraisers (who fall within the definition of a [‘commercial participator’](#) or [‘professional fundraiser’](#)) hired by Fundraising Organisations **MUST\*** make legally compliant statements as to how they are paid.
- c) External Fundraisers **MUST** agree in advance with Fundraising Organisation clients all procedures, including the processing of donors’ details, and fundraising materials.
- d) Fundraising Organisations **MUST** provide external fundraisers with necessary information about the Fundraising Organisation’s objectives and clear guidelines about conduct and the different tax reliefs in this area.
- e) External Fundraisers **MUST** process information as swiftly as possible and ensure that information relating to new donors is passed to the Fundraising Organisation as soon as possible.
- f) If External Fundraisers are representing multiple organisations, they **MUST** ensure all Fundraising Organisations are represented in an entirely neutral manner.

### 14.4 Payroll Giving Agencies

PGAs receive employees’ donations, which have been deducted by the employer from the payroll, and distribute these donations timely and efficiently to the relevant fundraising organisations. [Legal and best practice guidance for PGAs can be obtained from the Payroll Giving Centre.](#)

The [Charitable Deductions \(Approved Schemes\) Regulations 1986](#) place certain requirements on employers, which are not mentioned here, but maybe useful/necessary for employers/fundraising organisations to be aware of.

*[There is more information about payroll giving in the Institute of Fundraising’s Committed Giving in the Workplace guidance.](#)*

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# 15.0 Events

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 15.1 Legal References for this Section

- [Data Protection Act 1998](#)
- [Health & Safety at Work Act 1974](#)
- [Health and Safety at Work \(Northern Ireland\) Order 1978](#)
- [Package Travel, Package Holidays and Package Tours Regulations 1992](#)
- [Charities Act 1992](#)
- [Charities Act 2006](#)
- [Charities and Trustees Investment \(Scotland\) Act 2005](#)
- Johns v. AG(1976)
- General principles of Charity Law
- [Food Safety Act 1990](#)
- [Food Hygiene \(England\) Regulations 2006](#)
- [Safeguarding Vulnerable Groups Act 2006](#)
- [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007](#)
- [Countryside and Rights of Way Act 2000](#)
- [The Access to the Countryside \(Northern Ireland\) Order 1983](#)
- [Gambling Act 2005](#)
- [Civil Aviation \(Air Travel Organiser's Licensing\) Regulations 2012](#)
- [Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985](#)
- [Betting and Lotteries \(Northern Ireland\) Order 1994](#)
- [Food Safety \(Northern Ireland\) Order 1991](#)

## 15.2 Pre-Event Planning

### 15.2.1 Venue/Location

a) When identifying a suitable venue/ location for an event, fundraising organisations:

- **MUST\*** consider issues of equal access for all, even if an event is being targeted at a specific group of people.
- **MUST\*** ensure the venue complies with legal requirements about health and safety.
- **MUST** ensure the venue/location is fit for purpose, taking note of any restrictions.
- **MUST** be able to justify any environmental impact the event may have.



- b) If any specialist equipment is required or recommended, a list **MUST** be given to each participant/team far enough in advance for them to borrow/purchase any necessary items, making clear who is responsible for the kit and its suitability.
- c) Participants **MUST NOT** be able to proceed if the equipment mentioned above is not adequate.
- d) Where participants require the use of vehicles, organisers **MUST** advise participants to take rest stops and plan journey timetables that recognise road safety, especially speed limits.

### 15.2.2 Risk Assessment & Insurance

- a) Fundraising Organisations which are employers **MUST\*** carry out a sufficient and suitable risk assessment before undertaking an event of any size. Other fundraisers (who are not employers) **MUST** carry out a risk assessment where it is reasonable to do so.
- b) Fundraising organisations **MUST\*** carry out [Disclosure and Barring Service](#), [Disclosure Scotland](#) or [Access NI](#) checks where appropriate.
- c) Any compulsory insurance policies (for example, covering employees and use of cars) **MUST\*** be in place.
- d) Fundraising Organisations **MUST** ensure there is sufficient third party public liability cover in place and **MUST** consider if other insurance cover should be taken out.
- e) Fundraising Organisations **MUST** be clear which party is insuring against which risk.

### 15.2.3 Licences/Permissions

- a) Fundraising Organisations planning an event **MUST\*** ensure that any required permissions or licences are obtained from the local authority or other relevant bodies.
- b) The maximum number of participants may be dictated by permissions/licences or local conditions. These numbers **MUST NOT** be exceeded – in some cases this will be a legal requirement that **MUST\*** be adhered to under the licence agreement and/or insurance policy.
- c) When looking to use private property, Fundraising Organisations planning an event in England and Wales **MUST\*** obtain permission if necessary.

d) In Scotland, the position is more complex and, although generally there is no absolute legal requirement to do so, organisers **MUST** be able to show they have made reasonable attempts to liaise with land managers and obtain permission to ensure that there is no breach of the requirement to exercise access rights responsibly.

e) Organisations **MUST** comply with relevant local guidance or site specific information where appropriate when planning an event.

f) [The Countryside Code](#) in England and Wales and the [Scottish Outdoor Access Code](#) in Scotland and the [Northern Ireland Countryside Code](#) **MUST** be observed by all.

#### **15.2.4 Events on Open Access Land (England and Wales)**

Events taking place in England and/or Wales may rely on the use of land mapped as “open access land” under the Countryside and Rights of Way Act 2000 (‘the Act’). This right allows the public to use the relevant land on foot for open air recreation, subject to the user not causing damage to any walls, fences, hedges or gates and to a number of general restrictions set out at Schedule 2 of the Act. Schedule 2 provides that “open access land” may not be used for (amongst other things) :

- organised games, camping, hand-gliding or para-gliding; or
- engaging in any activity which is organised or undertaken for any commercial purpose.

As yet, there is no legal precedent which helps determine whether an organised fundraising event is affected by the restrictions in the Act.

a) If in any doubt, organisations planning an event on open access land **MUST** seek permission from landowners in respect of the particular activities they intend to undertake.

#### **15.2.5 Written Agreements**

a) Organisations **MUST** have written agreements with all external parties clearly highlighting all parties’ rights, responsibilities and obligations.

b) If any party is a [professional fundraiser](#) or a [commercial participator](#), a written agreement **MUST\*** be in place.

### 15.2.6 Promotional Materials

- a) All promotional materials supplied to potential participants and, particularly, material sent to them as part of 'fundraising packs' **MUST\*** indicate clearly if any part of the funds raised by the participant in the name of the organisation are to be used towards the participant's expenses or otherwise to benefit the participant.
- b) Recruitment materials designed to attract potential participants and, in particular, press advertisements, **MUST NOT\*** mislead readers into believing that their commitment would be limited to any minimum personal registration fee.
- c) Organisations **MUST** ensure 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.

### 15.2.7 Financial Procedures

- a) Fundraising organisations **MUST\*** obey tax and VAT rules and regulations for all events.
- b) For monies received in advance of, or during an event, organisations **MUST** have financial procedures in place. For more information, please see the Institute of Fundraising's [Handling Cash at Events](#).

### 15.2.8 Cancellations and Contingency Plans

- a) Sponsorship forms **MUST\*** be clear about whether sponsorship money is given subject to any conditions (eg. that the participant will complete a marathon). If money is given on this basis and a sponsored event is cancelled, or a participant is unable or unwilling to take part or complete the event for any reason, the participant **MUST\*** contact donors and ask if they are still happy for sponsorship monies to go to the organisation. If not, the donation **MUST\*** be refunded to the relevant donors. If sponsorship money is given without conditions it automatically belongs to the relevant charity regardless of whether or not an activity is completed.
- b) Fundraising organisations planning an event **MUST** have a plan to cover all eventualities that may reasonably be anticipated, and brief the relevant individuals to understand exactly what is expected of them.

### 15.2.9 Events Organised by Third Parties

Fundraising organisations **MUST** have an agreement with the event organiser allocating specific responsibilities and risk.

### 15.2.10 'In Aid of' Managed Events

A volunteer acting ['in aid of'](#) an organisation is raising funds but acting independently of the organisation. An organisation will often not know about the volunteer's acts. The Standards below only apply when the organisation has been made aware of the event.

- a) If an individual or group contacts the organisation in order to put on a third party event there **MUST** be clear identification of the body responsible for the event and that the event is ['in aid of'](#) and that the organisation will not accept any responsibility or liability for these events.
- b) Organisations **MUST** make it clear to the individual or group that it is their responsibility to organise all aspects of the event.
- c) Organisations **MUST** ensure that there are proper arrangements in place for monies to be transferred to the organisation quickly and efficiently.

## 15.3 People

### 15.3.1 Staff/Volunteers

- a) Organisations **MUST** have marshals and stewards with relevant experience, where necessary.

### 15.3.2 Participants/Attendees

- a) Organisations **MUST NOT\*** unlawfully discriminate against people in respect of disability, sex or race, in relation to an event. Further information is available from the [Equality and Human Rights Commission](#) and the [Equality Commission for Northern Ireland](#).
- b) Some participants may fall within the definition of [professional fundraisers](#) (for example, if the cost of the event is being paid for by the organisation or by sponsorship and falls outside the minimum level of remuneration permitted under the relevant legislation). If this is the case, there **MUST\*** be a written agreement and organisations **MUST** ensure participants are aware of their legal obligations about giving donors certain information.
- c) Where the participant does not personally pay the whole cost of the trip, but uses some of the sponsorship money for this purpose, organisations **MUST** ensure the participant knows that this **MUST\*** be made clear to every donor.

d) Organisations may want to reserve the right to refuse permission for a potential participant to take part in an event. Any such refusal **MUST\*** comply with consumer and discrimination legislation.

e) Any consents legally required for the participant to be involved in an event **MUST\*** be obtained in writing in advance of the event taking place.

f) Fundraising organisations are legally responsible for ensuring the health and safety of their employees and those that are affected by their activities (so far as reasonably practicable). Fundraising organisations **MUST\*** ensure that their health and safety arrangements (e.g. adequate medical cover and evacuation arrangements) are appropriate in the context of the event and country.

g) The fundraising organisation **MUST** ensure participants are aware of the fundraising targets they are expected to meet.

h) If a certain age, or level of fitness, preparation or training is required for safe participation this **MUST** be agreed with the participant in advance, along with any consents required for the participant to be involved, which **MUST** be agreed in writing in advance.

### 15.3.3 Specific Issues for Challenge Events

a) Travel legislation including the [Package Travel, Package Holidays and Package Tours Regulations 1992](#) and the [Civil Aviation Air Travel Organisers' Licensing Regulations 2012](#) ("the Travel Regulations") **MUST\*** be complied with.

b) Fundraising organisations **MUST** be clear who is responsible for complying with the Travel Regulations.

c) Fundraising organisations **MUST** check the track record and reliability of the tour operator and any sub-contractors.

d) All data obtained in the course of preparing for and running an event **MUST\*** be treated in accordance with the principles of data protection law.

e) When organising a challenge event and drafting data collection statements you **MUST** clarify with the tour operator who will be collecting the data and for what purposes the data will be collected and held.

f) If an event organiser, or participants themselves, fall within the definition of [professional fundraiser](#) or [commercial participator](#), they **MUST\*** have a written agreement in place with the organisation for which funds are being raised and **MUST\*** make the appropriate statements.

g) The organisation for which funds are being raised **MUST** take reasonable steps to ensure compliance with these requirements.

## 15.4 On the Day

### 15.4.1 General

- a) Before the event, organisations **MUST** conduct a final check to ensure everything is in place, especially fire exits, first aid and equipment provisions.
- b) Organisers **MUST** implement procedures at the event to avoid congestion.

### 15.4.2 First Aid

- a) Provision for first aid **MUST\*** be made for employees and anyone else who might reasonably be considered to be affected by an organisation's activities.

### 15.4.3 Selling/Trading

- a) If selling products at an event, organisations which are charities **MUST\*** ensure they are eligible to trade or that the trade fits within the trading exemptions.
- b) Any products being sold at the event **MUST\*** comply with relevant safety standards.
- c) Any food being supplied **MUST\*** comply with regulations applying to food ([Food Hygiene \(England\) Regulations 2006](#), the [Food Hygiene \(Wales\) Regulations 2006](#) or the [Food Hygiene \(Scotland\) Regulations 2006](#) or the [Food Hygiene \(Northern Ireland\) Regulations 2006](#) as applicable). For further details contact the environmental health department of the relevant local authority.
- d) If selling/providing alcohol, the relevant licences/permissions **MUST\*** be in place and age limits **MUST\*** be adhered to.

### 15.4.4 Raffles and Lotteries

- a) If a lottery (which includes a raffle) is to be held at the event, it **MUST\*** comply with the [Gambling Act 2005](#) or [Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985](#) and the [Betting and Lotteries \(Northern Ireland\) Order 1994](#). For further information please see [13.0 Raffles and Lotteries](#).

## 15.5 Three Peaks

This section provides additional standards for the Three Peaks Challenge, where teams are challenged to climb Ben Nevis, Scafell Pike and Snowdon, the highest mountains in Scotland, England and Wales.

a) An organiser **MUST**:

- register all groups of 12 or more with the [Glen Nevis Visitor Centre](#), the central registration point for all of the peaks at least twelve months in advance (unless a shorter timeframe is agreed);
- limit the number of walkers to no more than 200 per event;
- only run events at peak times where crucial to success or if it is the only workable option;
- remove the time pressure element by excluding the driving time between mountains and allocating a minimum driving time for all participants which is added to the walking time, regardless of the actual duration of the drive.

b) Arrival or departure **MUST NOT** be between the hours of 2300 and 0500.

c) Organisations **MUST** always use the [Visitor Centre at Glen Nevis](#) as the start point for Ben Nevis.

## 15.6 Post Event

### 15.6.1 Outstanding Monies

a) Organisations **MUST\*** not allow participants to use tax-effective methods to pay the registration fee, minimum sponsorship or other fees in breach of the Gift Aid rules (which prevent Gift Aid being applied where, (a) the donor is either the participant or a "person connected" to the participant and (b) the benefit to the participant exceeds the permitted benefits).

b) Procedures and/or a policy for following up on non-payment and not reaching minimum sponsorship requirements **MUST** be in place.

*[There is more information about event fundraising in the Institute of Fundraising's Event Fundraising guidance.](#)*

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# 16.0 Public Collections

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 16.1 Introduction

This section covers collections for cash, goods and Direct Debits whether carried out in public places, from house to house or on private property. The law governing collections varies according to the type and location of the collection and the nature of donation sought. For a detailed explanation of the different legal requirements, see the Legal Guidance.

The controls on public collections apply to collections for charitable purposes, and include collections for benevolent and philanthropic purposes. The controls apply to collections for all Fundraising Organisations which are charities, but also to collections for those which are not charities but are established for benevolent and philanthropic purposes.

In addition to complying with any relevant Code rules below, Face-to-face fundraisers operating on the Street, door-to-door or on private sites must comply with the relevant face-to face fundraising rule book found [here](#).

## 16.2 Legal References in this Section

- [House to House Collections Act 1939](#)
- [House to House Collections Regulations 1947 \(“the Regulations”\)](#)
- [House to House Charitable Collections Act \(Northern Ireland\) 1952](#)
- [House to House Charitable Collections Regulations \(Northern Ireland\) 1952 & 1953](#)
- [Model street collection regulations contained in the Charitable Collections \(Transitional Provisions\) Order 1974](#)
- [Police, Factories, etc. \(Miscellaneous Provisions\) Act 1916](#)
- [Civic Government \(Scotland\) Act 1982](#)
- [Public Charitable Collections \(Scotland\) Regulations 1984.](#)

## 16.3 Licensing/Permission Requirements

a) Fundraising Organisations carrying out any collection **MUST\*** comply with the relevant licensing/permission procedures.

b) Where an [IOF Compliance Directorate](#) site management agreement is in place, organisations **MUST** comply with it.



c) In England and Wales, a licence to collect **MUST\*** be obtained from the relevant authority in the area, such as the local authority or the Metropolitan Police (unless the collection is [house to house and the charity holds a National Exemption Order](#) – see the [Legal Guidance](#) and below for further detail).

d) In Northern Ireland, an appropriate permit or licence **MUST\*** be obtained from the PSNI station for each local area in which a house to house collection is to be carried out.

e) In Scotland, the collection will be a licensed one and legal obligations **MUST\*** be met if it is a collection of money (whether given for consideration or not) which is taken in a public place or by means of visits from place to place, but excluding a collection which takes place in the course of a public meeting or by means of an unattended receptacle kept in a fixed position in a public place.

In Scotland, the collection of Direct Debit promises by any means is not currently covered by the licensing rules.

f) In Scotland, unless an [exempt promoter](#), a written application **MUST\*** be made at least one month in advance (or within such other period as the local authority may determine).

g) In Scotland, a licence holder **MUST\*** appoint an independent responsible person or qualified accountant to act as auditor of the collection upon receipt of permission to collect. If the licence holder appoints an agent to act on his behalf, he **MUST\*** exercise due diligence in accordance with the Regulations.

h) Licences **MUST\*** be applied for in good time before the collection is due to take place.

#### **16.4 Exemption Licence Holders (National Exemption Orders, Exemption Orders and Exempt Promoters)**

a) Where a Fundraising Organisation has the benefit of a national exemption licence (in England and Wales, a [National Exemption Order](#), in Scotland, an [Exempt Promoter](#), and in Northern Ireland an [Exemption Order](#)) for house to house collections it **MUST**:

- establish a clear annual programme of collections;
- fix specific dates a year in advance for all collections (some fundraising organisations advocate two years) and negotiate any proposed changes to dates with relevant authorities at the earliest opportunity and confirm all changes in writing;
- make every attempt to avoid a conflict in collection dates;

- inform relevant authorities of collection dates and, as far as possible, the specific areas to be covered by the collection;
- confirm all agreed dates in writing to the relevant authorities;
- notify relevant authorities, immediately, of any decisions to cancel a collection;
- where practicable, advise relevant police authorities and all other Exemption Order holders/ Exempt Promoters by letter of agreed collection dates at the earliest opportunity;
- abide by established collection dates;
- ensure that sufficient collectors are available to support an effective collection in order not to deprive other charities of the opportunity to collect;
- be able to provide information on the precise dates and locations of all collections; and
- **MUST NOT** book large blocks of time.

b) In Scotland, [Exempt Promoters](#) **MUST** observe the above standards, and **MUST\***:

- give at least 3 months' notice to the relevant Local Authority of any intended collection which would otherwise have required a licence;
- follow the licensed collection rules which apply to licence holders regarding an organiser's duties, certificates of authority, how funds are received, and the opening of collections;
- report annually to the [Office of the Scottish Charity Regulator \(OSCR\)](#), giving an audited account of collections carried out (including a breakdown by local authority area and details of the expenses incurred), a signed organiser's statement and an auditor's statement
- publish a notice summarising the audited account of collections in a newspaper with a national Scottish circulation within one month of submission of these records to [OSCR](#).

## 16.5 Working with Third Parties

a) When working with third parties, Fundraising Organisations **MUST** have contracts in place except where, in England and Wales and Scotland, [commercial participators](#) or [professional fundraisers](#) are involved, contracts **MUST\*** be in place. See [section 4.5](#) for further details on what these contracts are required to include.

b) Additionally, when a collection involves a [commercial participator](#) or [professional fundraiser](#) appropriate statements **MUST\*** be made.

c) In Northern Ireland, there are currently no specific regulations in place in regard to third parties, but Fundraising Organisations **MUST\*** follow the forms of contracts used elsewhere in the United Kingdom.

d) Fundraising Organisations **MUST NOT** undertake fundraising activity using third parties without instigating a training and briefing programme for all collectors.

e) Where a collector is a paid charity employee, paid officer or paid trustee, the collector **MUST\*** [make a statement](#) to the effect they are being paid to carry out the collection.

f) The Fundraising Organisation **MUST** seek to clarify the ownership of copyright with respect to all materials and databases connected with the activity, prior to instigating that activity.

## 16.6 Age of Collectors

a) The Fundraising Organisation **MUST\*** ensure any age limits on collectors are complied with.

## 16.7 Selection and Authorisation of Collectors

a) In England and Wales, for house to house collections, Fundraising Organisations **MUST\*** exercise all due diligence to ensure collectors are fit and proper persons to collect.

b) In England and Wales, for house to house collections, collectors **MUST\*** be given a certificate of authority and badge.

c) In England and Wales, for street collections, each collector **MUST\*** generally have the written authority of the promoter.

d) In Scotland, Fundraising Organisations **MUST\*** ensure that:

- reasonable steps are taken to ensure collectors are fit and proper persons to collect;
- all collectors are at least the minimum age required by that jurisdiction; and
- collectors are aware of their legal obligations.

## 16.8 Training and Instructions

a) In England and Wales, for house to house collections, the promoter **MUST\*** exercise due diligence to ensure that collectors comply with the [House to House Collections Regulations 1947](#).

b) In Northern Ireland, fundraising organisations **MUST\*** ensure that:

- reasonable steps are taken to ensure collectors are fit and proper persons to collect;
- collectors are given a certificate of authority and badge and collecting boxes or receipt books.

c) Fundraising organisations **MUST** ensure that all fundraisers/ agents are properly trained to the Institute's prescribed training standards for face to face fundraising.

## 16.9 Collection Materials

a) Collectors **MUST\*** comply with any legal requirements relating to collection boxes, certificates of authority and badges.

b) In England and Wales, all printed materials seeking money or goods on behalf of registered charities with incomes over £10,000 **MUST\*** [state that the charity is registered](#).

c) In Scotland, all promotional or other materials used by or behalf of any charity registered with [OSCR](#) **MUST\*** (whether the collection is licensed or not, and regardless of the charity's income) [include the charity's registered name, any other name by which it is commonly known, the fact that it is a charity \(if its name does not already include reference to its charitable status\) and its registered Scottish charity number](#).

d) Materials **MUST** include contact details for the Fundraising Organisation and collectors, where different.

e) Personnel representing the Fundraising Organisation and, where possible, their vehicles, **MUST** be clearly identifiable as representing the Fundraising Organisation

f) To ensure that efficient and effective monitoring of all collections takes place, the issue and return of all materials connected with the collection **MUST** be recorded.

## 16.10 Conduct of Collections

a) All collections **MUST\*** be carried out in accordance with the terms of the relevant permit or licence. Collectors **MUST\*** only make approaches in areas and during operating hours set by terms of agreements/licences/permissions (unless a follow up is agreed with an individual).

b) All personal information **MUST\*** be collated and returned to the Fundraising Organisation in a prompt and secure manner as agreed by the Fundraising Organisation and in compliance with Data Protection legislation.

- c) In England and Wales, for house to house collections, collectors **MUST NOT\*** 'importune any person to the annoyance of such person', or ignore a request to leave or a request not to return.
- d) 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 him, or the distinguishing number marked on the collecting box given to each collector.
- e) In Scotland, fundraising organisations **MUST\*** also be able to provide full details of all collectors within a given area, including name, address, telephone number, the precise area to be covered and the exact period during which the collector is authorised to collect.
- f) In Scotland, fundraisers carrying out a licensed collection **MUST NOT\*** cause annoyance by being insistent or repeatedly pressing an individual to donate and **MUST\*** leave a property (and may not remain in or at the door of a house) if requested to leave by any of the occupants.
- g) In cases where the activity is to secure a form of non-financial commitment, but there is a possibility that the Fundraising Organisation will subsequently ask for a financial commitment, collectors **MUST** inform the individual being engaged during the initial activity of this possibility.
- h) Fundraising Organisations **MUST** be able to provide full details of all those collecting on their behalf within a given area, including name, address, telephone number, the area to be covered and the exact period during which the collector is authorised to collect.
- i) If times are not set out as part of agreements or licences, standard operating hours **MUST** be 9am-9pm on a weekday and 10am-9pm on a weekend.
- j) Collectors **MUST** to avoid causing obstruction, congestion and nuisance to the public.
- k) Collectors **MUST** ensure that they wear appropriate clothing, which includes ensuring any provided clothing showing the name of the Fundraising Organisation is visible.
- l) Collectors **MUST NOT** smoke or fundraise under the influence of alcohol or illegal drugs.
- m) Collectors **MUST NOT** pressurise the public to give their support, but they can use reasonable persuasion.
- n) Organisations **MUST** employ all best efforts to avoid soliciting regular donations, such as Direct Debits, from under 18s.
- o) Collectors **MUST** be able to give the public information on how to make a complaint.

- p) Collectors **MUST**, when asked to do so, terminate their approach in a polite manner.
- q) Collectors **MUST** be courteous at all times.
- r) If a “No Cold Calling Zone” has been created legitimately (i.e. within [Trading Standards Institute guidelines](#)), collectors **MUST NOT** cold call. [Find out more about fundraising and Cold Calling Zones](#) in the Institute of Fundraising’s Guidance
- s) Fundraisers **MUST NOT** knock on any door of a property that displays a sticker or sign which includes the words ‘No Cold Calling’. [For more information see the Institute of Fundraising’s guidance on no cold calling stickers.](#)
- t) Organisations operating house to house bag collections for charitable purposes **MUST NOT** deliver 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 indicate that the householder does not wish to donate through this method.

### **16.11 Handling the Proceeds of a Cash Collection**

- a) The [relevant standards for handling cash donations](#) **MUST** be observed and legal requirements **MUST\*** be complied with.
- b) Arrangements **MUST** be made for the receipt of the collection proceeds and all used and unused materials connected with it at a specified point authorised by the organiser of the collection.

### **16.12 Information to be Provided to the Licensing Authority**

- a) The promoter of the collection **MUST\*** send any necessary information to the licensing authority within the required period after the collection.
- b) Fundraising Organisations **MUST** have procedures in place to enable accounts to be created within this timescale.

### **16.13 Collections on Private Property**

- a) Organisations **MUST\*** have permission from the property owner/manager to collect and **MUST\*** ensure they only collect on times/dates/areas specified.

*There is more information about public collections in the Institute of Fundraising’s [Face to Face Fundraising](#) and [House to House Fundraising](#) guidance.*

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# 17.0 Static Collections

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 17.1 Legal References for this Section

- General Charity law principles
- [Charities Act 1992](#)

## 17.2 Introduction

The most common form of collection appeals undertaken outside the requirements of existing legislation governing public collecting activity are appeals involving the use of static collecting boxes - either floor standing or on counters in shops, pubs, hotels, hospitals, reception areas etc.

In Northern Ireland there is no specific legislation which applies but it is good practice to follow the rules applying in the rest of the United Kingdom.

### Organisers of static collections

Organisers of static collections are those who hold primary responsibility for the collection. They have responsibility for ensuring that adequate permission for the collection is obtained, that they and any other collectors they have issued authority to can evidence this sufficiently where required; and that all collectors can be clearly identified.

## 17.3 Responsibilities of organisers of static collections

- a) In advance of any collection, the organiser **MUST\*** obtain the permission of the site owner or those with authority to grant permission to hold a static collection on the premises. The permission **MUST** be in writing.
- b) Organisers of a static collection **MUST** issue a letter, certificate of authority or badge to any collectors. Specific requirements for different categories of collector are as follows:
  - i) those collectors who are directly employed by the organisation benefitting or who are acting as **'on behalf of'** volunteers ([see 2.2.1.2 Distinguishing 'on Behalf of' and 'in Aid of' Volunteers](#)) **MUST** include:
    - the collector's name;

- the name and contact details of the organisation benefitting from the collection; and
  - the name of the organiser (if different to collector or organisation benefitting)
- ii) those collectors working for an agency or company on behalf of the organisation benefitting **MUST** include:
- the collector's name;
  - the name and contact details of the agency or company; and
  - the name and contact details of the organisation benefitting from the collection
- iii) those collectors who are 'in aid of' volunteers' ([see 2.2.1.2 Distinguishing 'on Behalf of' and 'in Aid of' Volunteers](#)) **MUST** include:
- the collector's name;
  - their own contact details;
  - the name of the organisation benefitting from the collection; and;
  - the name of the organiser if different to the collector.
  - 'in aid of' volunteers should also be able to provide a second form of identification such as a passport or driver's license to assist in verifying their identity on request.

#### **17.4 Collectors' Responsibilities**

- a) The collector (if different from the organiser of the collection) **MUST** ensure that the organiser has obtained permission to conduct the collection.
- b) Collectors **MUST** possess a letter, certificate of authority or badge as specified in section **17.3 b**.
- c) The certificate of authority **MUST** be shown to the site owner or those with authority to grant permission to hold a static collection on the premises.
- d) Collectors **MUST** make it clear to site owners 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, that they need to contact the collector or the organiser of the collection, preferably in writing.

#### **17.5 Appearance and Maintenance of Collection Boxes**

Where the management of static collection boxes is undertaken on behalf of charities or other voluntary organisations by third parties who receive reward for this activity and who solicit in connection with it, it is important that all parties concerned with the static collection box activity are aware of their responsibilities and



obligations under [Part II of the Charities Act 1992](#) or [Part 2 of the Charities and Trustee Investment \(Scotland\) Act 2005](#).

a) In England and Wales, all notices, advertisements and other documents issued by, or on behalf of a registered charity with an annual income in excess of £10,000 and which, in any way, seeks support for the registered charity, **MUST\*** [include a statement that the charity is a registered charity](#).

b) In Scotland, most notices, advertisements and documents (including any document soliciting money or other property) sent by, or on behalf of, any charity in the Scottish Charity Register **MUST\*** [include the charity's registered name, any other name by which it is commonly known, the fact that it is a charity \(if its name does not already include reference to its charitable status\) and its registered Scottish charity number](#).

## 17.6 Collecting and Sending Donations to the Organisations

a) If the collector is a professional fundraiser, all monies **MUST\*** be returned to the organiser/organisation without deductions of fees or expenses as soon as is reasonably practicable.

b) If it is not practical for the collector to open and count collecting boxes, organisations **MUST** have robust procedures and instructions for siteholders to count, record and bank/deliver proceeds.

c) If desired, siteholders **MUST** be provided with a receipt that contains the address of the site, the box number, the date and the amount collected. The collector **MUST** send the organisation the full sum of all monies taken from all boxes without deduction of expenses or fees, unless specifically agreed.

d) Fundraising organisations and promoters **MUST** keep separate records of income raised, and expenses/fees for maintenance and administration.

[\*There is more information about static collections in the Institute of Fundraising's Management of Static Collection Points guidance.\*](#)

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# 18.0 Legacies

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 18.1 Legal References for this Section

- [Charities Act 1992](#)
- [Charities and Trustee Investment \(Scotland\) Act 2005](#)
- General charity law principles
- General trust law principles

## 18.2 Key Principles

- a) A fundraiser **MUST NOT\*** exert undue influence on a potential legator.
- b) Organisations **MUST** ensure that all legacy fundraising activity is done whilst considering:
- the duty of trustees to optimise the benefit to the fundraising organisation;
  - the potential legator's freedom to provide for her/his family and others; and
  - the sensitivities of the potential legator and his/her family and friends.
- c) Organisations **MUST** ensure fundraisers do not provide legal advice.

## 18.3 Undertaking Legacy Fundraising

- a) Whenever legacy fundraising is done by an external third party who is a professional fundraiser, this fundraising **MUST\*** comply with professional fundraising legal obligations.
- b) If a potential legator asks the organisation or any of its officers or employees to act as executor, the organisation **MUST** carefully consider whether to agree, bearing in mind the duties and responsibilities of acting as executor and potential risks to the organisation. If the organisation itself is to be appointed as executor and take out the grant of representation in its own name, the organisation **MUST\*** have the power to do so (and for legators domiciled in England and Wales this usually means that the organisation must have trust corporation status)

c) Organisations **MUST** ensure that any incentives and recognition devices are of appropriate value, which will usually be of minimal cost.

### 18.3.1 Written Communications Seeking Legacies

a) Organisations **MUST** make clear that the contents are not intended to constitute legal advice by the organisation and that potential legators should seek their own professional advice.

b) If organisations provide potential legators with suggested wording for legacies to the organisation to be included in their Wills, they **MUST** ensure that the suggested wording is accurate (which may involve seeking legal advice) and that the organisation is clearly identified (which will depend by jurisdiction, but will usually mean providing the organisation's full name, address and the registered office address if it is a company - and registered charity number, if applicable).

### 18.3.2 Communicating in Person

a) Organisations **MUST** consider the needs and situation of vulnerable individuals before embarking on face-to-face legacy fundraising activity.

b) If holding an event that is solely about legacies or where legacies will be discussed and potentially solicited, organisations **MUST** be open about the reason for the invitation to an event.

c) Event organisers **MUST NOT** be exploitative in their 'use' of beneficiaries or supporters as case studies or testimonials, and **MUST** respect their dignity and privacy.

d) Individual face-to-face meetings in a potential legator's home to discuss legacies **MUST NOT** occur without that person having first had the opportunity to decline the meeting.

e) In all individual face-to-face legacy fundraising, fundraisers **MUST**:

- accept the right of the potential legator to invite a third party of their choice to be present at any stage of the face-to-face meeting(s);
- remind the potential legator of the purpose of their face-to-face visit;

- ensure that the meeting is undertaken in a manner and at a length sensitive to, and suiting the interests and concerns of, the particular potential legator and **MUST**\* ensure that the fundraiser's behaviour cannot be construed as threatening or exerting undue pressure or influence;
- accept the right of the potential legator to terminate the face-to-face meeting at any time, and **MUST** accept the termination promptly and courteously; and
- make and retain attendance notes of meetings and communications with the potential legator on file.

### 18.3.3 Fundraisers' Involvement in Making a Will

If the witness to the will is the beneficiary or a connected person to the beneficiary organisation, the validity of the will could be challenged.

a) Organisations **MUST NOT** draft or be directly involved in drafting Wills in favour of the organisation.

b) Fundraisers **MUST** ensure that they are absent at all times during the preparation, drafting and signing of the Will.

c) Witnesses to a Will under which an organisation benefits **MUST** be independent of the organisation, including staff and volunteers, to avoid any risk of "undue influence" which could affect the validity of the legacy.

### 18.3.4 Fundraisers' Relationships with Potential Legators

Close relationships can develop between a fundraiser and a potential legator. This can sometimes favour the fundraiser rather than the organisation, and a legacy may be left to the individual in their personal capacity, rather than to the organisation.

a) If a legacy is offered in a personal capacity, fundraisers **MUST** explain that, should the legator wish to give a legacy to him/her personally, then the fundraiser **MUST** disclose the gift to his/her line manager at the organisation.

b) Fundraisers **MUST NOT** take advantage of their employment by the organisation to solicit a personal legacy.

c) If an organisation considers that a fundraiser has abused his/her position and has solicited a personal legacy, the organisation **MUST** follow disciplinary procedures for dealing with such situations.

### 18.3.5 Paying for Wills with Charity Funds

- a) Fundraisers **MUST NOT** make it a condition that the organisation is included in the Will and **MUST NOT\*** exert undue influence on potential legators.
- b) In England and Wales, the organisation should take account of any guidance issued by the [Charity Commission](#) in relation to paying for Wills with charity funds.

## 18.4 After a Legacy Has Been Made

### 18.4.1 Ongoing Contact with Legators

- a) Organisations **MUST\*** respect the wishes of the legator if they want no further marketing communications (which would include any fundraising requests) from the organisation or, wherever possible, if they request a certain level of contact.
- b) If a legator or potential legator asks the benefitting organisation to explain to disinherited family members why they are being disinherited, the organisation **MUST** decline or otherwise only explain why the organisation needs the legacy.

### 18.4.2 Conditional/Restricted Gifts

- a) If a legacy is left with a request/wish, rather than subject to conditions, organisations **MUST** consider whether to comply with the legator's wishes.
- b) If a legacy is left on condition or subject to a binding obligation that it must be used for a particular purpose or project or such like, organisations **MUST** contact the administrator/executor if the conditions cannot be fulfilled before accepting the legacy or, otherwise, if the conditions can be fulfilled and the legacy is accepted, the organisation **MUST\*** follow those conditions.
- c) In Scotland, if a legacy or gift is given for a specific purpose but the purpose has been fulfilled or otherwise provided for, can no longer be given effect to, has ceased to be charitable, has ceased to be a suitable and effective use of the funds or does not provide a use for all of the funds, organisations **MUST** consider applying to OSCR to reorganise the restricted fund in order to allow the restricted fund to be used to better effect in a way that is consistent with the charity's constitution. However, a charity **MUST NOT\*** use restricted funds for a different purpose unless OSCR grants such a reorganisation application.

### 18.4.3 Administering Legacies and Gifts

a) Organisations **MUST** respect the legator's or their estate's wishes about any public recognition of the gift.

b) Where case studies are sought, permission **MUST** be obtained from the next of kin, where possible.

[There is more information about legacies in the Institute of Fundraising's Legacy Fundraising guidance.](#)

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# 19.0 Payment of Fundraisers

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 19.1 Legal References for this Section

- General principles of charity law
- [Employment Rights Act 1996](#)
- [Data Protection Act 1998](#)
- [Charities Act 1992](#)
- [Charities Act 2006](#)
- [HMRC Gift Aid Rules](#)
- [House to House Collections Act 1939](#)
- [House to House Collections Regulations 1947](#)
- [Charitable Collections \(Transitional Provisions\) Order 1974 \(contain model local regulations\)](#)
- [National Minimum Wage Act 1998](#)
- [House to House Charitable Collections Act \(NI\) 1952 and 1953](#)
- [Police, Factories, etc. \(Miscellaneous Provisions\) Act 1916](#)

The following Legal Appendices **MUST** be read in conjunction with this section of the Code of Fundraising Practice

- [L3 The Payment of Trustees](#)
- [L8 Professional Fundraiser Agreements](#)

## 19.2 Scope

This section applies to all organisations engaged in paying fundraisers, no matter what the specific fundraising technique involves or who they are employed by, for example, be it the fundraising organisation themselves or another professional organisation.

## 19.3 Overarching Principle

a) All funds **MUST\*** be used reasonably and prudently in the interest of the fundraising organisation. This involves ensuring that remuneration of fundraisers is proportionate to the benefit reasonably expected to be obtained.

## 19.4 Choosing the Appropriate Payment Mechanism

a) Practices and controls **MUST** be in place to ensure that payment methods do not leave the fundraiser or organisation out of pocket.

## 19.5 Excessive Remuneration

- a) Payments to fundraisers **MUST NOT\*** be excessive. For the purposes of this code, an excessive payment should be regarded as one which is considerably more than an ordinary, well-informed person would consider reasonable.
- b) Where appropriate, maximum caps or reducing sliding scales **MUST** be used to avoid excessive remuneration.

## 19.6 Commission

a) Organisations **MUST NOT** use commission payments unless the following conditions are met:

- other sources of fundraising investment have been explored and exhausted;
- payments are subject to approval by the fundraising organisation's trustees, or senior executives when power has been delegated; and
- safeguards are in place to ensure excessive remuneration is not permitted.

## 19.7 Performance Management Systems

a) Robust performance management systems **MUST** be in place, recognising the impact of the payment method on the fundraiser, the fundraising organisation, the beneficiaries and the public at large.

b) Remuneration systems **MUST** be monitored to ensure that they continue to strike a balance between allocating risk and incentivising fundraisers effectively.

## 19.8 Individuals' Requirements

### 19.8.1 Staff

a) Where an employment relationship exists, the employer **MUST\*** ensure that their chosen method of remuneration meets the [Employment Rights Act 1996](#) (in Northern Ireland [The Employment Rights \(Northern Ireland\) Order 1996](#)), and **MUST\*** comply with the minimum wage rules in the [National Minimum Wage Act 1998](#).

Further information is available from the [Department for Business Innovation and Skills](#).



### 19.8.2 Professional Fundraisers

a) Those freelance fundraisers and consultants who fall within the legal definition of a [professional fundraiser](#) **MUST\*** comply with the applicable legal requirements.

### 19.8.3 Volunteers

a) Volunteers **MUST** only have their out-of-pocket expenses reimbursed.

### 19.8.4 Trustees

a) Trustees **MUST NOT\*** be paid for fundraising on behalf of the organisation [unless specific criteria are met](#) (which differ according to jurisdiction).

*[There is more information about the payment of fundraising in the Institute of Fundraising's Payment of Fundraisers guidance.](#)*

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# 20.0 Handling Donations

Note: **MUST\*** and **MUST NOT\*** denotes legal requirement; **MUST** and **MUST NOT** denotes requirement of the Code of Fundraising Practice

## 20.1 Preparation and Procedure

### 20.1.1 Scope

For the purposes of this Code and the law, collection envelopes and collection boxes are treated in the same way, unless otherwise stated. The following guidance covers donations received in person and donations received through the post.

### 20.1.2 General Requirements

- a) Records **MUST** be made of donations for specific purposes (certain appeals/projects etc) to ensure that the terms of donations are complied with. Such terms **MUST\*** be complied with.
- b) [Professional fundraisers](#) and [commercial participators](#) **MUST NOT\*** make any deduction from cash received for the organisation. Other fundraisers **MUST NOT\*** make deductions from cash received unless agreed with the organisation.
- c) Local Authorities may impose additional rules about making deductions from collections and fundraisers/fundraising organisations **MUST\*** comply with these where relevant.
- d) Expenses **MUST\*** be met (where previously agreed) by the organisation after receipt of the donation.

### 20.1.3 Receipts

- a) For house-to-house cash collections where a sealed collecting box is being used, donations **MUST\*** be placed inside. Otherwise, the collector **MUST\*** issue and sign a receipt for the donated amount.
- b) Under the model regulations for street collections, donations **MUST\*** be placed in sealed collecting receptacles. It is not necessary to give a receipt.
- c) In Scotland, a collector in a licensed collection which is carried out by collecting box **MUST\*** only accept donations by permitting the donor to place it in a collecting box. Alternatively, the collection can be carried out by sealed envelopes, in which case the collector **MUST\*** only accept donations in sealed envelopes using the

numbered envelopes issued to him. It is not therefore usually possible to issue receipts.

#### **20.1.4 Banking**

- a) Cash **MUST** be banked as soon as is practicable. To aid this, organisations **MUST** have a procedure on banking donations, such as who does it and when.
- b) Cash not banked immediately **MUST** be placed in a safe or other secure location.
- c) In Scotland, where cash is received in collection envelopes or collection boxes as part of a public charitable collection, it **MUST\*** be counted and banked in accordance with the [Public Charitable Collections \(Scotland\) Regulations 1984](#), as amended.

#### **20.2 Cash**

- a) Cash **MUST** be collected, counted and recorded by two unrelated individuals, wherever possible. (Collection boxes **MUST\*** only be examined and opened by the promoter of the collection (.e.g. a charity's fundraising manager) and one other responsible person or by an official of a bank).
- b) Unsecured cash **MUST** never be left unattended or in an unattended environment.
- c) At the earliest possible date, reconciliation **MUST** be made between cash banked and income summaries. Where practical, this **MUST** be undertaken by a person independent of the counting and cashing up of the money.
- d) Cash **MUST** be counted in a secure environment.

#### **20.3 Cheques**

- a) Cheques **MUST** be banked or, where used, sent to the organisation's fulfilment house promptly.
- b) If sending cheques to a fulfilment house or external processor, organisations **MUST** ensure the method of sending the cheque is appropriate to the value being transported.

Further information about cheque procedures is available from the [Cheque and Credit Clearing Company](#).

## 20.4 Charity Vouchers/Cheques

Charity voucher/ cheque accounts enable donors to make donations(s) via a lump sum or regular amounts into an account. The agency administering the account will claim and add Gift Aid to the donation. The donor is issued with a book of vouchers/cheque book to donate this money to their preferred charities. On receiving the voucher/ cheque, the beneficiary charity contacts the agency and arranges for the donation to be transferred.

- a) Organisations **MUST NOT\*** reclaim tax on the donation, as the Gift Aid was added before receipt.
- b) Vouchers **MUST** be banked/ redeemed promptly, ideally the next working day, unless the voucher organisation requires otherwise

## 20.5 Card Transactions

This section applies to transactions both where the donor is or is not present.

The steps that need to be taken to ensure security will vary depending on the number of transactions that are made. Guidance is available from the Payment Card Industry Security Standards Council.

- a) Organisations **MUST** comply with the [Payment Card Industry Data Security Standards \(PCI-DSS\)](#). PCI-DSS consists of 12 requirements that all organisations and businesses processing card payments have to meet.
- b) Additional security measures such as Verified by Visa and 3D Securecode **MUST** be used for online transactions where resources allow.
- c) The PCI-DSS state that the CSC should not be stored and this requirement **MUST** be observed.
- d) Where charges are made for transferring payments, the total donation amount **MUST** be recorded as income, with a further record of expenditure to cover the charges.

## 20.6 Direct Debits

- a) The procedures and rules surrounding direct debits will vary dependent on the bank used by the organisation. The Direct Debit Guarantee exists to provide unified standards and protection to customers. Organisations which have signed up to the scheme **MUST\*** comply with it.

## 20.7 Children

a) Children under 16 **MUST NOT** be left with overall responsibility for handling money and/or responsibility for counting collected money.

b) In England and Wales, house to house collections **MUST NOT\*** be carried out by anyone under 16. Collectors in street collections **MUST NOT\*** be under 16 except in London where, if special consent is obtained, street collectors aged 14 or over can be used.

c) In Scotland, where a collection qualifies as a public charitable collection, children under 14 **MUST NOT\*** be allowed to participate if it is a street collection, and children under 16 **MUST NOT\*** be allowed to carry out house to house collections.

d) In Northern Ireland, youth organisations may have collectors aged 12 years and over if the organisation is approved for the purpose of carrying out the collection by the [Department for Social Development](#).

## 20.8 Handling Cash at Events

The information in this section about events only applies to donation processes.

### 20.8.1 Record Keeping

a) Organisations **MUST\*** ensure that they comply with [HMRC requirements regarding record keeping for VAT purposes](#).

### 20.8.2 Floats

a) Floats **MUST** be signed for by a nominated individual.

b) Where petty cash expenditure is paid from the float, this **MUST** be recorded separately and any receipts kept.

c) Floats and any sale monies received **MUST** be kept separate from the cash handler's personal money.

### 20.8.3 Tills

In this section, tills include all taking and storing money receptacles.

a) All monies **MUST** immediately be put into the till.

b) Change **MUST** be given only from the till and never from personal money.

#### **20.8.4 Cheques From Trading**

a) Change **MUST NOT** be given for cheques.

b) Refunds **MUST NOT** be available until the money is in the organisation's account.

*[There is more information about the handling of donations in the Institute of Fundraising's Handling of Cash and Other Donations guidance.](#)*

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