**Fundraising’s Code of Fundraising Practice**

Relevant Sections to our fundraising activities:

1. Key Principles and Behaviours

**General Principles**:

* A legal principle underpinning fundraising is that all funds raised for a particular cause MUST be used for that particular cause.
* Fundraisers ought not to denigrate other individuals or organisations.
* Organisations ought not to exaggerate facts relating to the potential beneficiary.
* Organisations ought not to take advantage of mistakes made by the donor.

**The Donation**:

* 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 ought not to pressurise donors or potential donors, but may use reasonable persuasion.
* Fundraisers ought not to 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.

**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.

**After the Donation:**

* Any specified reporting requirements to which a donation is subject must be complied with.
* 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.

**Use of Funds:**

* In certain instances, it may not be possible to use the monies raised for a particular gift for its intended purpose. 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.
* If an appeal is being run for a particular purpose, fundraisers OUGHT to include a statement indicating what will happen to funds received if the total funds raised are insufficient or exceed the target.

**Complaints:**

* Organisations ought to have a complaints procedure which ought to also apply to any Third Parties fundraising on their behalf.
* Organisations ought to respond to any complaints from donors, beneficiaries or other parties in a timely, respectful, open and honest way.
* Organisations ought to ensure that the learning’s from any complaints are acted upon.

1. Working with Volunteers

**Definition 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.

There are two distinct categories of volunteers:

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.

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.

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

For the purpose of this charity the document will now only deal with ‘On behalf of’ volunteers as these are the main type used by us.

**Issues related to all types of volunteers:**

* Organisations ought to store volunteers’ personal contact information and this storage must comply with the Data Protection Act 1998.
* Organisations must comply with legal duties concerning the use of Criminal Records Bureau (CRB), Disclosure Scotland or Access NI checks.
* Organisations ought not to 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.
* Volunteers ought to have only their out-of-pocket expenses reimbursed.
* Organisations ought to make it clear to all volunteers that anyone raising money must ensure that the organisation receives all that money.

**Specific Considerations when Working with ‘on Behalf of’ Volunteers:**

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:

* 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).
* 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.
* Organisations must make and give effect to appropriate arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.
* Organisations must audit the adequacy of their risk assessment procedures.
* Organisations must appoint one or more competent person(s) to implement the measures needed to comply with health and safety law.
* Where appropriate, organisations ought to 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.
* Organisations ought to 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.

1. Working with Third Parties

**Introduction:**

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 ought to require the adherence of third parties to the Code.

**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”.

Before soliciting donations a “professional fundraiser” must have a written agreement in place with the client, and each time a “professional fundraiser” solicits donations, they must make a disclosure (or solicitation) statement.

**Pre-contract:**

Consultants and freelance fundraisers ought only to claim experience, qualifications and achievements that can be substantiated.

**Contracts/Written Agreements:**

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

* 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 ought to be in place between the consultant/freelance fundraiser and the organisation it is providing services to.
* The agreement ought to include clear and realistic expectations of the activities to be undertaken, budget, resources, timings and the possible outcomes.
* Review procedures ought to appear in the agreement.
* 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).
* 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 ought to include similar provisions requiring the variation to be in writing and preventing an unfavourable variation from being imposed by one party alone.

**Fees:**

* Consultants/freelance fundraisers ought to 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.
* 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.
* Consultants/freelance fundraisers ought not to be remunerated by commission or commission-only methods, unless certain criteria are fulfilled.
* Any allowance for variation of payment levels ought to 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.

**Conflict of Interests:**

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

**Confidentiality:**

* 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.
* Terms governing conditions of confidence and what constitutes confidential information ought to be stipulated as part of the written agreement between the consultant/freelance fundraiser and client.

1. Fundraising Communication and Techniques

**General Principles:**

* Data protection is an important issue for all fundraisers. Fundraising organisations must comply with all legal requirements relating to data protection.
* Organisations must not send a communication that is indecent or grossly offensive and that is intended to cause distress or anxiety.
* 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.
* Organisations must ensure literature includes all legally required information for example, registered charity status or number, full company name and registered office if applicable.
* 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.
* If organisations are fundraising in partnership with one or more organisations, organisations ought to state how monies will be allocated between the organisations.
* Fundraising organisations ought to comply with the CAP (Committee of Advertising Practice) Code and BCAP (UK Code of Broadcast Advertising) Code and ensure all advertisements are legal, decent, honest and truthful.
* Fundraising communications ought not to mislead, or be clearly likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.
* Before dissemination, fundraisers ought to ensure that there is evidence to prove all claims, whether direct or implied, are capable of objective substantiation.
* Particular care ought to 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.
* Fundraising organisations ought to be able to justify the use of potentially shocking images, and give warnings of such material.
* Organisations ought to be able to justify the frequency of contact, balancing the desire to communicate with not overwhelming/bombarding recipients.
* Organisations ought to respect donor’s requests around the frequency of contact, and make it easy to communicate these requests.
* Fundraising materials ought to pressurise potential donors but can use reasonable persuasion.
* Where known, organisations ought to communicate appropriately with vulnerable people, who could include, but are not limited to: service users and client groups and people with learning difficulties and/or disabilities.

**Case Studies:**

* 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.
* Even if not required by law, fundraising organisations ought to obtain permission for case studies, where practical.
* If organisations change elements of case studies or use real examples to inspire a case study, this ought to be made clear and organisations ought to be able to prove that the case study is representative.

**Use of Personal Data:**

* Fundraising organisations will usually need to be registered (or “notified”) under the Data Protection Act 1998 with which they must comply.
* All personal data must be collected fairly and lawfully.
* The retention and use of personal data in any research MUST comply with data protection law.
* Organisations must maintain good data hygiene practices (removing incorrect information from your data) to ensure donor information is accurate, reflects donors’ communication preferences and is retained only for as long as necessary.
* Organisations must not send unsolicited marketing communications to consumers if explicit consent is required and has not been obtained or if the consumer has requested that the processing of any personal data relating to him or her for marketing purposes shall cease.
* Organisations must comply with any duties of confidentiality they have.
* 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.
* Organisations ought to 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
* Data has, if possible, been through a deceased suppression service in order to remove deceased supporters.
* Where it can be identified or attributed to one or more individuals, all information gathered ought to be treated as confidential.

1. Direct Marketing

**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.

**Preparation:**

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

**Enclosure in Direct Mail Packs:**

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

* Fundraising organisations ought to consider the safety of any enclosures.
* Fundraising organisations ought to 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.
* Fundraising organisations ought not to use enclosures that might cause inconvenience in achieving delivery, unless the donor knows or has requested it.

1. Reciprocal Mailing

**Introduction:**

All list owners engaging in reciprocal mailing ought to subscribe to the Mailing Preference Service (MPS) as a protection to their supporters’ rights to privacy.

**Initial Considerations:**

* Organisations must observe the provisions of the Data Protection Act 1998, including those around permissions to pass on donors’ data.
* 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.

**Processes/Agreement:**

* Organisations holding a manual index ought to satisfy their reciprocal mailing partner about the standard and quality of their list.
* Organisations engaging in reciprocal mailing ought to exchange written agreement of the terms and conditions of the mailings, which should include the list content, dates for use, and levels of list cleanliness and content of the mailing.

**Mailing:**

* Any variation in agreement which permits reciprocal mailings to be used more than once ought to 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
  + The type and number of supporters on the list i.e. those paying by direct debit, cash, bankers order, covenant etc.
* All returned ‘non-deliverable’ items and information concerning changes to the supporter file ought to be passed back promptly to the list owner for file maintenance purposes.

1. Digital Media

**Accessibility and Usability:**

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

**Organisation’s own website:**

* Information to be provided:
* Organisations must have specified information on their website about their status, dependant on certain conditions.
* Organisations ought to ensure that a contact number and/or an email address are easy to locate.
* Data:
* 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.
* 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.
* Requests to unsubscribe ought to be addressed in a timely fashion. The Information Commissioner’s Office has suggested time limits which can be found on their website.
* Organisations ought to clearly explain data capture and use, for example through a privacy policy or statement.
* All information about data capture and use ought to be easily accessible from the website homepage and any page which collects personal data.
* Content
* Organisations must have the necessary intellectual property permissions to use or share digital content, such as images, audio, video etc.

**Donations and E-Commerce:**

* 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.
* Online Trading, Trading Subsidiaries and e-commerce:
* Organisations must only trade if their governing documents allow it.
* Organisations must comply with the Consumer Protection (Distance Selling) Regulations 2000 (as amended) which cover sale of goods and services via the internet, and the electronic Commerce (EC Directive) Regulations 2002 and the Provision of Services Regulations 2009, which govern the conduct of digital commerce in the UK.
* 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.
* Organisations must ensure that descriptions and images of goods are sufficiently accurate that donors are not misled about what they are buying.
* Organisations must have the necessary intellectual property permissions to use or share digital content, such as: images, audio, video etc.
* Organisations ought to ensure that they have clear delivery, refund and return policies that set out processes and timings for potential customers.

**Working with Third Parties:**

* 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.
* When not legally required to have written agreements, organisations ought still to have contracts or agreements in place.
* Organisations ought to 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.
* If placing fundraising content on a third party’s platform, fundraising organisations ought to apply the same due diligence as if it was on their own website.

**Social Media:**

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

**Mobile Devices and Platforms:**

* 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.

* SMS and MMS
* 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.
* Organisations ought to 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.
* Organisations, must make the cost of premium rate messages clear to donors and OUGHT to explain to donors how and when they will be billed.
* 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.
* Reply by SMS ought to be an option for opting-out and be clear in all communications.
* Organisations ought to use a simple opt-out message.
* Users ought to be able to exercise their opt-out choice from any message, free of charge.
* For competitions and prize draws, organisations ought to provide a clear and simple method of accessing any terms and conditions and ought to publish the identity of the promoter.
* Charity Short Codes
* When receiving donations by SMS, organisations OUGHT to 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).

**Email:**

* Data Protection
* Fundraising organisations must comply with the requirements of the Data Protection Act 1998 and must not disclose information obtained in situations where a legal duty to keep information confidential arises.
* Organisations must provide a valid address for opt- out requests.
* Content
* Emails ought to carry a statement confirming the status of an organisation, and must do so in certain circumstances.
* Organisations ought not to send bulk emails from named individual’s email accounts.
* Organisations ought to use a simple opt-out message.

1. Major Donors

**Definition:**

* “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.

**Money Laundering:**

* 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.
* Organisations ought to undertake due diligence on both the financial and reputational dealings of potential partners before donations are accepted.
* Fundraisers ought to be aware of the Proceeds of Crime Act 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.

**General Requirements:**

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

1. Corporate Partnerships

**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.

**Preparation:**

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

**Written Agreements:**

* 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.
* 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.
* In other situations, if goods or services are being sold during the course of the partnership, there ought to 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 ought to be approved and understood by all parties.
* The agreement ought to be considered, negotiated and agreed by authorised representatives of both parties before its commencement.
* Review procedures ought to appear in the agreement and fundraising organisations ought to consider performance at these reviews and decide whether further action is appropriate (such as invoking penalty clauses, or reviewing the agreement).

**Legal and Tax Issues:**

* In England and Wales, if a fundraising organisation is a registered charity (with an income of over £10,000) it must state on all its letters and other documents its name and the fact that it is registered. In practice this usually means stating its charity registration number.
* 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.
* 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.

1. Events

**Pre- event Planning:**

Venue/Location:

* 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 for health and safety
* Ought to ensure the venue/location is fit for purpose, taking note of any restrictions
* Ought to be able to justify any environmental impact the event may have.
* If any specialist equipment is required or recommended, a list OUGHT to 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.
* Participants ought not to be able to proceed if the equipment mentioned above is not adequate.
* Where participants require the use of vehicles, organisers OUGHT to advise participants to take rest stops and plan journey timetables that recognise road safety, especially speed limits.

Risk Assessment & Insurance:

* 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) ought to carry out a risk assessment where it is reasonable to do so.
* Fundraising organisations must carry out Criminal Records Bureau, Disclosure Scotland or Access NI checks where appropriate.
* Any compulsory insurance policies (for example, covering employees and use of cars) must be in place.
* Fundraising organisations ought to ensure there is sufficient third party public liability cover in place and ought to consider if other insurance cover should be taken out.
* Fundraising organisations ought to be clear which party is insuring against which risk.

Licences/Permissions:

* Fundraising organisations planning an event must ensure that any required permissions or licences are obtained from the local authority or other relevant bodies.
* The maximum number of participants may be dictated by permissions/licences or local conditions. These numbers ought not to be exceeded – in some cases this will be a legal requirement that must be adhered to under the licence agreement and/or insurance policy.
* When looking to use private property, fundraising organisations planning an event in England and Wales must obtain permission if necessary.
* In Scotland, the position is more complex and, although generally there is no absolute legal requirement to do so, organisers ought to 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.
* Organisations ought to comply with relevant local guidance or site specific information where appropriate when planning an event.
* The Countryside Code in England and Wales and the Scottish Outdoor Access Code in Scotland and the Northern Ireland Countryside Code ought to be observed by all.

Events on Open Access Land:

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.
* 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.

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

Written Agreements:

* Organisations ought to have written agreements with all external parties clearly highlighting all parties’ rights, responsibilities and obligations.
* If any party is a professional fundraiser or a commercial participator, a written agreement must be in place.

Promotional Materials:

* 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.
* 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.
* Organisations ought to 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.

Financial Procedures:

* Fundraising organisations must obey tax and VAT rules and regulations for all events.
* For monies received in advance of, or during an event, organisations ought to have financial procedures in place.

Cancellation and Contingency Plans:

* Sponsorship forms must be clear about whether sponsorship money is given subject to any conditions (e.g. 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 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.
* Fundraising organisations planning an event ought to 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.

Events Organised by Third Parties:

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

**People:**

Staff/Volunteers:

* Organisations ought to have marshals and stewards with relevant experience, where necessary.

Participants/Attendees:

* Organisations must not unlawfully discriminate against people in respect of disability, sex or race, in relation to an event.
* Some participants may fall within the definition of professional fundraisers53 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 ought to ensure participants are aware of their legal obligations about giving donors certain information.
* Where the participant does not personally pay the whole cost of the trip, but uses some of the sponsorship money for this purpose, organisations ought to ensure the participant knows that this must be made clear to every donor.
* 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.
* Any consent legally required for the participant to be involved in an event must be obtained in writing in advance of the event taking place.
* 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.
* The fundraising organisation ought to ensure participants are aware of the fundraising targets they are expected to meet.
* If a certain age, or level of fitness, preparation or training is required for safe participation this OUGHT to be agreed with the participant in advance, along with any consents required for the participant to be involved, which OUGHT to be agreed in writing in advance.

Specific Issues for Challenge Events:

* 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.
* Fundraising organisations ought to be clear who is responsible for complying with the Travel Regulations.
* Fundraising organisations ought to check the track record and reliability of the tour operator and any sub-contractors.
* 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.
* When organising a challenge event and drafting data collection statements you ought to clarify with the tour operator who will be collecting the data and for what purposes the data will be collected and held.
* 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.
* The organisation for which funds are being raised ought to take reasonable steps to ensure compliance with these requirements.

**On the Day**

General:

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

First Aid:

* 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.

Selling/Trading:

* 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.
* Any products being sold at the event must comply with relevant safety standards.
* Any food being supplied must comply with regulations applying to food (Food Hygiene (England) Regulations 2006, the Food Hygiene (Wales) Regulations 2006, the Food Hygiene (Scotland) Regulations 2006 or the Food Hygiene (Northern Ireland) Regulations 2006 as applicable).
* If selling/providing alcohol, the relevant licences/permissions must be in place and age limits must be adhered to.

Raffles and Lotteries:

* If a lottery (which includes a raffle) is to be held at the event, it MUST comply with the Gambling Act 2005.

**Post Event**

Outstanding Monies:

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

1. Public Collections

**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.

**Licensing/Permission requirements:**

* Fundraising organisations carrying out any collection must comply with the relevant licensing/permission procedures.
* Where a Public Fundraising Regulatory Association (PFRA) site management agreement is in place, organisations ought to comply with it.
* 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
* Licences ought to be applied for in good time before the collection is due to take place.

**Working with Third Parties:**

* When working with third parties, fundraising organisations ought to have contracts in place except where, in England and Wales and Scotland, commercial participators or professional fundraisers are involved, contracts must be in place.
* Additionally, when a collection involves a commercial participator or professional fundraiser appropriate statements must be made.
* Fundraising organisations ought not to undertake fundraising activity using third parties without instigating a training and briefing programme for all collectors.
* 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.
* The fundraising organisation ought to seek to clarify the ownership of copyright with respect to all materials and databases connected with the activity, prior to instigating that activity.

**Selection and Authorisation of Collectors:**

* 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.
* In England and Wales, for house to house collections, collectors must be given a certificate of authority and badge.
* In England and Wales, for street collections, each collector must generally have the written authority of the promoter.

**Training and Instruction:**

* 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.
* Fundraising organisations OUGHT to ensure that all fundraisers/agents are properly trained to the Institute’s prescribed training standards for face to face fundraising.

**Collection Materials:**

* Collectors must comply with any legal requirements relating to collection boxes, certificates of authority and badges.
* 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.
* Materials ought to include contact details for the fundraising organisation and collectors, where different.
* Personnel representing the fundraising organisation and, where possible, their vehicles ought to be clearly identifiable as representing the fundraising organisation.
* To ensure that efficient and effective monitoring of all collections takes place, the issue and return of all materials connected with the collection ought to be recorded.

**Conduct of Collections:**

* 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).
* 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.
* In England Wales, for house to house collections, collectors must not “importune any person to the annoyance of such person”, or remain in, or at the door of, any house if requested to leave.
* 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 ought to inform the individual being engaged during the initial activity of this possibility.
* Fundraising organisations ought to 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 .
* If times are not set out as part of agreements or licences, standard operating hours ought to be 9am-9pm on a weekday and 10am-9pm on a weekend.
* Collectors ought to avoid causing obstruction, congestion and nuisance to the public.
* Collectors ought to ensure that they wear appropriate clothing, which includes ensuring any provided clothing showing the name of the fundraising organisation is visible.
* Collectors ought not to smoke or fundraise under the influence of alcohol or illegal drugs.
* Collectors ought not to pressurise the public to give their support, but they can use reasonable persuasion.
* Collectors ought not to approach individuals that may reasonably be considered to be vulnerable adults.
* Organisations ought to employ all best efforts to avoid soliciting regular donations, such as Direct Debits, from under 18’s.
* Collectors ought to be able to give the public information on how to make a complaint.
* Collectors ought to, when asked to do so, terminate their approach in a polite manner.
* Collectors ought to be courteous at all times.
* If a “No Cold Calling Zone” has been created legitimately (i.e. within Trading Standards Institute guidelines), collectors ought not to cold call.

**Handling the Proceeds of a Cash Collection:**

* The relevant Institute Standards for handling cash donations ought to be observed and legal requirements must be complied with.
* Arrangements ought to 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.

**Information to be provided to the Licensing Authority:**

* The Promoter of the collection must send any necessary information to the licensing authority within the required period after the collection.
* Fundraising organisations ought to have procedures in place to enable accounts to be created within this timescale.

**Collections on Private Property:**

* Organisations must have permission from the property owner/manager to collect and must ensure they only collect on times/dates/areas specified.

1. Static Collections

**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.

**Organisational and Promoter Responsibilities:**

* The fundraising organisation ought to issue a certificate of authority/badge signed by the promoter bearing the name of the fundraising organisation that will benefit from the collection, together with the collector’s name, address and signature.
* Organisations ought to provide the promoters/collectors with guidance/procedures for collectors to follow and make it clear when the collector can vary these procedures.
* Promoters/fundraising organisations ought to make all reasonable efforts to regain certificates of authority/badges and collections boxes from collectors on ceasing to act as a collector, or if they are no longer deemed fit to collect.

**Collectors’ Responsibilities:**

* The collector must obtain written permission of site holders to collect on the premises.
* Collectors ought to possess a certificate of authority/badge signed by the promoter bearing the name of the fundraising organisation that will benefit from the collection, together with their own name, address and signature.
* The certificate of authority ought to be shown to the site holder.
* Collectors ought to make it clear to site holders that if a box if lost or stolen, or if they want to end the collection, that they need to contact the collector or fundraising organisation, preferably in writing.

**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 2 of the Charities Act 1992 or Part 2 of the Charities and Trustee Investment (Scotland) Act 2005.
* In England and Wales, all notices, advertisements and other documents issued by, or on behalf of registered charity with an annual income in excess of £10,000 and which, in any way, seek support for the registered charity, must include a statement that the charity is a registered charity.

**Collecting and Sending Donations to the Organisations:**

* If the collector is a professional fundraiser, all monies must be returned to the promoter/organisation without deductions of fees or expenses as soon as is reasonably practicable.
* If it is not practical for the collector to open and count collecting boxes, organisations ought to have robust procedures and instructions for site holders to count, record and bank/deliver proceeds.
* If desired, site holders ought to be provided with a receipt that contains the address of the site, the box number, the date and the amount collected. The collector ought to send the organisation the full sum of all monies taken from all boxes without deduction of expenses or fees, unless specifically agreed.
* Fundraising organisations and promoters ought to keep separate records of income raised and expenses/fees for maintenance and administration.

1. Handling Donations

**Preparation and Procedure:**

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.

General Requirements:

* Records ought to 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.
* 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.
* Local authorities may impose additional rules about making deductions from collections and fundraisers/fundraising organisations must comply with these where relevant.
* Expenses must be met (where previously agreed) by the organisation after receipt of the donation.

Receipts:

* 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.
* Under the model regulations for street collections, donations must be placed in sealed collecting receptacles. It is not necessary to give a receipt.

Banking:

* Cash ought to be banked as soon as is practicable. To aid this, organisations ought to have a procedure on banking donations, such as who does it and when.
* Cash not banked immediately ought to be placed in a safe or other secure location.

**Cash:**

* Cash ought to 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).
* Unsecured cash ought never to be left unattended or in an unattended environment.
* At the earliest possible date, reconciliation ought to be made between cash banked and income summaries. Where practical, this ought to be undertaken by a person independent of the counting and cashing up of the money.
* Cash ought to be counted in a secure environment.

**Cheques:**

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

**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.
* Organisations ought to 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.
* Additional security measures such as Verified by Visa and 3D Secure code ought to be used for online transactions where resources allow.
* The PCI-DSS state that the Card Security Code (CSC) should not be stored and this requirement ought to be observed.
* Where charges are made for transferring payments, the total donation amount ought to be recorded as income, with a further record of expenditure to cover the charges.

**Direct Debits:**

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.

**Handling Cash at Events:**

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

Record Keeping:

* Organisations must ensure that they comply with HMRC requirements regarding record keeping for VAT purposes.

Floats:

* Floats ought to be signed for by a nominated individual.
* Where petty cash expenditure is paid from the float, this ought to be recorded separately and any receipts kept.
* Floats and any sale monies received ought to be kept separate from the cash handler’s personal money.

Tills:

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

* All monies ought to be put immediately into the till.
* Change ought to be given only from the till and never from personal money.

Cheques from Trading:

* Change ought not to be given for cheques.
* Refunds ought not to be available until the money is in the organisation’s account.