

Charity Fundraising – Legal aspects

Key Fundraising Principles for Trustees

1. Plan effectively
 - Develop a fundraising strategy
 - Set out the purpose of the fundraising and fundraising target
 - Decide who will carry out the fundraising
 - Assess the risk to the charity of each fundraising activity
2. Supervise your fundraisers
 - Oversee all fundraising activities carried out on behalf of the charity, whether by staff, volunteers or external agencies
 - Ensure all fundraising is in the best interests of the charity
 - Have proper agreements in place for working with third parties
3. Protect your charity's reputation and other assets
 - Consider the impact of fundraising, including on the reputation of the charity
 - Make sure you receive all money you are entitled to
 - Have an effective finance system and monitor fundraising costs
4. Comply with fundraising laws and regulations
 - Data protection and licencing laws
 - Fundraising regulations
 - Take advice where necessary
5. Follow recognised standards for fundraising
 - Follow the Code of Fundraising Practice
6. Be open and accountable
 - Ensure the charity is well run
 - Comply with statutory accounting and reporting requirements
 - Have an effective complaints procedure in place
 - Ensure all appeals are clearly worded



For further information, go to

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731228/CC20.pdf

Code of Fundraising Practice

Fundraising is subject to a self-regulatory system which sets out and enforces clear standards of conduct.

The fundraising regulator:

- Regulates all types of charity fundraising
- Uses the Code to adjudicate concerns and complaints
- Promotes visible compliance with the Code
- Has sanctioning powers to use if necessary

The Code of Fundraising Practice outlines standards expected of all fundraising organisations. Also sets out standards for face-to-face and door-to-door fundraising.



For the full Code, go to <https://www.fundraisingregulator.org.uk/code>

Gift Aid



Under the Gift Aid scheme a charity may claim back 25p for every £1 donated

- The organisation must be registered with HMRC as a charity or sports club (CASC)
- The donor must pay at least as much tax as you are claiming back in Gift Aid
- The donor must make a Gift Aid Declaration that gives you permission to claim it
- Claims can be made online and take 4-5 weeks to process

The Small Donations scheme allows Gift Aid to be claimed on cash or contactless card donations of £20 or less

- Up to £2,000 a year may be claimed, or 10x other gift aid claims
- Records must be kept to show cash collected, including the date and when it was banked
- As of 1 April 2019 this will increase to donations of £30 or less



For more information go to <https://www.gov.uk/claim-gift-aid>

Sponsorship

Sponsorship forms must state if the giving is subject to any conditions. What will happen to the money if the event is cancelled, or not completed?

If there are no conditions, the money will go to the charity regardless of whether the event is completed.

To claim Gift Aid on sponsorship, the donor must give their name and address on the form and tick a Gift Aid box.

Legacies

A legacy is when someone leaves money to a charity in their will.

- The charity must not provide legal advice or influence the potential legator in any way
- The charity must not be involved in drafting wills
- Written appeals must not constitute legal advice
- The legator's wishes must be complied with
- Also consider ethical issues
 - The donor must have the freedom to provide for their own family
 - If a fundraiser becomes too close to the donor they may be left money instead of the charity
 - Be sensitive when dealing with donors

Restricted Funds



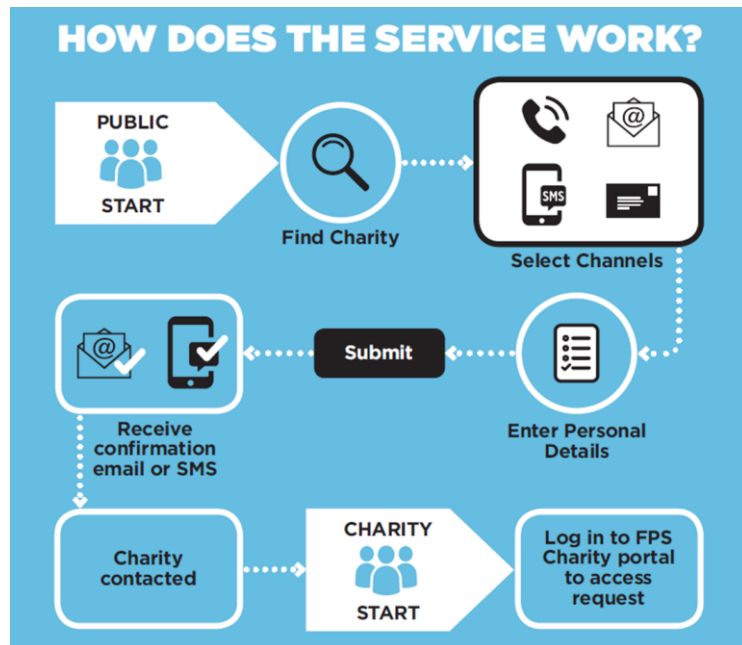
If funds are raised for a specific purpose, that is what they must be used for.

Any appeal must contain a statement indicating what will happen to funds received if they are insufficient, or if they exceed the target.

Financial records must show restricted funds separately so that it is clear what they have been spent on. They must also be shown separately in the year end accounts.

Fundraising Preference Service

This allows people to control the nature and frequency of direct marketing communications they receive from fundraising organisations. Individuals can choose to stop receiving communication from selected charities.



Charities themselves are enrolled if they receive a request. They then have 28 days to remove the person’s details from their direct marketing lists.

The fundraising Code of Practice specifies that charities must stop sending direct marketing communications to individuals after a request has been received. Continuing to contact someone would constitute a breach of the Code and the Fundraising Regulator would take action.



For further information, go to <https://www.fundraisingregulator.org.uk/complaints/fundraising-preference-service>

Fundraising Events – Laws and Licenses

When running a fundraising event there are a number of laws and regulations you may have to consider. These include:

- Health and safety
- First aiders
- Food hygiene
- Accessibility requirements
- Risk assessments and insurance
- Licence for the sale of alcohol
- Public performance or entertainment licences
- Rules around running a raffle or lottery
- VAT and tax regulations

Tax and Trading



A charity will not pay tax on profits from trading or fundraising events if they fall under certain exemptions.

A charity will then also meet the criteria for VAT exemption. They will not then have to account for VAT on income, but also is unable to recover the VAT on related expenses.

When running an event it must be made clear that the main purpose is fundraising in order to benefit from exemptions.

Primary Purpose Trading

- Trading that contributes to the objects of the charity, or is mainly carried out by the beneficiaries
- Profits must be used solely for the purposes of the charity

Ancillary Trading

- Trading that contributes directly to the furtherance of the charitable purposes
- Treated as part of primary purpose trading

Small Trading Exemptions

- Non-primary purpose trading carried out solely to raise funds, rather than to further the objects of the charity may be carried out within the charity within set limits
- This is to reduce the level of risk to the charity if income does not cover the costs of trading
- The low level permitted means the risk is likely to be small
- Any trading above this level must be carried out through a trading subsidiary

Total Income	Current Trading Limit	Trading Limit from 1/4/19
Under £20,000	£5,000	£8,000
£20,000 - £200,000	25% turnover	25% turnover
Over £200,000	£50,000	£80,000

15 Event Threshold

- Fundraising events must not class as continuous trading
- No more than 15 events of the same kind can be held in a single location in any year

- This does not apply where gross takings from these events are no more than £1,000 a week
- Once the threshold has been exceeded no events qualify for the exemption
- Exemption is not optional. If a charity does not want it to apply it must intentionally break the requirements
- For events held online, the charity's website is classed as one location



For more information go to <https://www.gov.uk/guidance/charities-and-trading>

Cash Handling Procedures

House-to-house and street collections

- Use sealed containers for collections
- The charity name and number should be shown on the collection box
- All donations must be placed inside the collection box
- Professional fundraiser and commercial participators must not make any deductions from cash received
- The collector must issue and sign a receipt for the amount collected

Counting cash income

- Cash should be counted in a secure environment
- Cash must be collected, counted and recorded by two unrelated individuals, wherever possible
- Do not leave unsecure cash unattended

Banking procedures

- Make sure insurance covers all cash yet to be banked or in transit to the bank
- Bank cash as soon as possible
- Have procedures in place for how often cash is banked and by who
- Bank all cash income received, without deducting expenses

Use of cash floats

- All floats must be signed for by the recipient
- If expenditure must be made from the float, keep receipts and good records
- Keep separate from any personal money