



Consultation

Charity fundraising: a guide to trustee duties

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1. Introduction

Many charities need to ask the public for money. They rely on public generosity - an enduring feature of our society - to carry out their important work helping those in need. In return the public place their trust in charities to raise money in a considerate way and to use it effectively.

Trustees of fundraising charities have a key role to play in setting their charity's approach to raising funds, making sure that it is followed in practice and reflects their charity's values.

The commission recognises the challenges for trustees in getting fundraising right, so that it brings in vital money for their work and provides a positive experience for donors and the public.

As the regulator of charities in England and Wales, the commission expects charities that fundraise to do so in a way which builds their charity's reputation and encourages public trust and confidence in charities generally. This includes following the law and recognised standards, protecting charities from inappropriate risks, and showing respect for donors, supporters and the public.

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2. About this guidance

First and foremost, it is the trustees of charities who are legally responsible for their charity's fundraising.

The commission has published this guidance, principally for the trustees of fundraising charities, to help them comply with their legal trustee duties when overseeing their charity's fundraising. It sets out 6 principles to help trustees achieve this.

Trustees are the custodians of their charities. They are publicly accountable and have legal duties and responsibilities under charity law which include giving sufficient time and attention to their role, acting in their charity's best interests, and protecting its reputation and other assets from inappropriate risk. These duties are not new. They are part of charity trustees' existing duties.

The best way that trustees can ensure that they are running or directing their fundraising in a way that complies with their legal trustee duties is to put in place good governance. They need to ensure there is strong management of the people and organisations that the charity works with, and of its money, reputation and other assets. This doesn't mean never taking risks, but risks must be identified and managed.

You should be familiar with the commission's guidance on [your trustee duties](#) and [making decisions](#).

The guidance also explains what the commission does to regulate fundraising by charities and how this links to the system of self-regulation of fundraising activity.

2.1 Who should read this guidance and when does it apply

This guidance is about all types of fundraising from the public for the benefit of charities and their beneficiaries. It applies whether or not:

- fundraising from the public is a small or major part of the charity's approach to raising money
- the fundraising it is carried out by the charity, or another person or organisation on the charity's behalf

It applies to the trustees of all fundraising charities in England and Wales, registered and unregistered.

It may also be of interest to other key groups involved in charity fundraising such as professional fundraisers and businesses and consultants working in fundraising; senior charity staff and charity staff working on governance, compliance, controls and risk management. Members of the public will be able to use the final version of this guidance to find out how fundraising is regulated and how to raise a concern or make a complaint about fundraising.

The guidance focuses primarily on matters for which the commission has regulatory responsibility, outlining the fundraising issues which can trigger commission involvement where trustee actions or failings pose a serious risk to the charity.

Regulation of the day to day fundraising practices and methods that charities use is covered by a self-regulation system which supervises charities' compliance with a [Code of Fundraising Practice](#). This code details the professional standards which have been developed to ensure that fundraising is open, honest and respectful.

There are also a range of laws that apply to specific types and aspects of fundraising for example, lotteries, collections in public spaces, house-to-house collections and data protection. This guidance does not cover these rules. It links to the Code of Fundraising Practice as one source of information about them.

There is separate guidance about the fundraising rules in [Scotland](#) and [Northern Ireland](#).

To read this guidance you need to know what the following terms mean.

2.2 Definition of key terms

In this guidance:

- ‘must’ means something is a legal or regulatory requirement or duty that trustees must comply with
- ‘should’ means something is good practice that the commission expects trustees to follow and apply to their charity

Following the good practice specified in this guidance will help you to run your charity effectively, avoid difficulties and comply with your [legal trustee duties](#). Charities vary in terms of their size and activities. Consider and decide how best to apply this good practice to your charity’s circumstances. The commission expects you to be able to explain and justify your approach, particularly if you decide not to follow good practice in this guidance.

In some cases you will be unable to comply with your legal duties if you don’t follow the good practice.

For example: examples to be included in the final version of this guidance following the consultation period.

The [Code of Fundraising Practice](#) is the document compiled by the Institute of Fundraising which sets out the legal requirements and recognised standards which apply to different types of UK fundraising activity.

This guidance used the term ‘commercial partners’ to refer to professional fundraisers and commercial participators. The terms professional fundraiser and commercial participator are defined at [section 14](#).

The ‘Fundraising Regulator’ is: definition to be included in the final version of this guidance following the consultation period.

This guidance uses the term ‘fundraising charities’ to refer to charities whose fundraising includes fundraising from the public.

This guidance uses the term ‘fundraising law’ to refer to the legal rules about fundraising which are in the Charities Acts and those, such as in the Data Protection Act, which apply to specific fundraising activities.

The ‘Institute of Fundraising’ (IOF) is the membership organisation for fundraising professionals and fundraising organisations.

This guidance uses the term ‘recognised standards’ to refer to the professional fundraising standards included in the [Code of Fundraising Practice](#) which go beyond legal requirements and which have been developed to ensure that fundraising is open, honest and respectful.

This guidance uses the term ‘values’ to refer to the commitments a charity makes to going about its work in a certain way. Charity values are usually communicated to a charity’s employees, volunteers and the other people it works with to help them to understand how the charity does things, what behaviours it expects and what its intentions are.

Although values can be expressed in any way, some examples of charity values are ‘collaborative’, ‘respectful’, ‘child-focused’, ‘independent’, ‘we strive to keep our promises’.

There is no requirement for a charity to have explicit values.

Other technical terms used in this guidance are defined at [section 14](#).

3. Controlling your charity's fundraising - at a glance summary

This is a summary of the principles which you and your co-trustees should follow to help you meet your responsibility for your charity's fundraising. To ensure that you fully understand your responsibilities and the specific requirements in each area, you should refer to the rest of the guidance as necessary.

You and your co trustees are legally responsible for making sure that your charity's fundraising is carried out in compliance with your legal trustee duties.

This responsibility applies:

- whoever is carrying out the fundraising
- in addition to specific fundraising law and recognised standards which may be relevant to your fundraising activities

Key to meeting your legal trustee duties is operating effective control over:

- your charity's fundraising plan
- the fundraising which other people carry out for your charity
- the assets and resources you use and raise
- how your fundraising is explained to your supporters and the public

Controlling your charity's fundraising is about:

a) Planning effectively

This is about you and your co-trustees being directly involved in setting and monitoring your charity's overall approach to fundraising. Your fundraising plans should take account of risks and your charity's values as well as its income expectations. See [section 4](#).

b) Supervising your fundraisers

This is about you and your co-trustees overseeing the fundraising which others carry out for your charity, so that you can be satisfied that it is in the charity's best interests. It means delegating responsibly so that your charity's in-house and volunteer fundraisers know what is expected of them. If you employ a commercial partner to raise funds for your charity, the arrangement must be in the charity's best interests and comply with specific legal rules and standards. See [section 5](#).

c) Protecting your charity's reputation, money and other assets

This means managing your charity's assets and resources in a way which meets your legal trustee duty to act in its best interests and protect it from inappropriate risk. It includes considering the impact of your charity's fundraising on its donors, supporters and the public, making sure that your charity receives all the money to which it is entitled, and protecting it from loss or fraud. See [sections 6 and 7](#).

d) Finding out about, and fully complying with, any specific laws or regulations that apply to your charity's fundraising

The legal rules that apply to various types of fundraising can be detailed and complex. They cover compliance in important areas such as with data protection law, licensing, and working with commercial partners. You should make sure that you have access to sufficient information and appropriate advice to ensure that your charity's fundraising complies with the rules. See [section 8](#).

e) Finding out about, and following, any recognised standards that apply to your charity's fundraising

These are in the [Code of Fundraising Practice](#). The code outlines both the legal rules that apply to fundraising and the standards designed to ensure that fundraising is open, honest and respectful. If your charity is a member of IOF or subscribes to the Fundraising Regulator you must comply with the standards in the code as a condition of your membership. The commission expects all fundraising charities to fully comply with the code. See [section 9](#).

f) Being open and accountable

This includes complying with any relevant statutory accounting and reporting requirements on fundraising and using reporting to demonstrate that your charity is well run and effective. In your fundraising communications it is about being able to effectively explain your fundraising work to members of the public and your charity's supporters. See [section 10](#).

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4. Plan effectively

This section is about planning and monitoring your charity's fundraising. It tells you that all trustees should be directly involved in setting and monitoring their charity's overall approach to fundraising. This is so that you can fulfil the responsibility that you and your co-trustees have for supervising and managing your charity.

Appropriate involvement in your charity's fundraising will depend on its size, structure and complexity, and how planning is done will vary. If yours is a charity where senior staff or others take the lead on planning, you and your co-trustees should be able to question, challenge and robustly discuss their proposals.

As a minimum, you and your co trustees should have direct involvement in:

- deciding your charity's overall approach to getting the funds your charity needs (income generation)
- setting and agreeing your charity's fundraising strategy - this is your plan for:
 - what funding you need, now and in the future
 - why you need it
 - how and when you will achieve it

Your plan need not be lengthy or complex. But it should include issues such as:

- the fundraising methods you will use
- the resources you will use and the costs you will incur
- the financial, reputational and other risks you will face and how they should be avoided or managed
- how your fundraising will reflect your charity's values
- regularly monitoring progress against the fundraising plans which you have set, looking carefully and critically at the areas of highest risk

You and your co-trustees must not expose your charity to inappropriate risk. You should identify and regularly review the risks your charity faces in all areas of its fundraising. This doesn't mean never taking risks. It's about recognising and assessing risk and deciding how to deal with it.

The commission's guidance on [risk management](#) sets out the basics of dealing with risks and includes a risk management model.

There are free resources to help charities who are setting fundraising plans and strategies, including those produced by the [Institute of Fundraising](#).

5. Supervise fundraisers

This section is about keeping control of your charity's fundraising, whether you carry it out yourselves or delegate it to staff, volunteers or commercial partners. This is so that you can:

- fulfil the responsibility that you and your co-trustees have for supervising and managing your charity
- meet your legal trustee duty to ensure that any arrangements between your charity and third party fundraisers are in its best interests

5.1 Delegation to employees

You and your co-trustees may carry out the fundraising yourselves or it may be run by your staff. Where you decide to delegate the day to day management of fundraising to your employees, you should:

- ensure that any delegation is clearly documented and understood
- put clear reporting procedures in place, giving guidance on any particular matters that are to be reported to the trustees
- be able to check that the delegated authority is exercised properly
- receive regular and fully documented report backs on agreed matters, in a format you can understand and use, and which allows you to exercise proper oversight

Avoid mistakes - be clear about your role as a trustee of a fundraising charity

Be careful to get your involvement right. This means not ignoring fundraising or leaving it solely to others so that you can focus on the charity's work with its beneficiaries. If you do this you are not fulfilling your legal trustee duties. Remember you and your co-trustees are accountable if something goes wrong.

Equally, where you have made staff responsible for the day to day management of your charity's fundraising operation, avoid becoming over involved. You should allow your staff to carry out the functions which you have assigned to them. Proper trustee oversight is about making sure that staff are accountable and work within the parameters you have set. You can use the systems you have put in place to maintain scrutiny and control.

5.2 Working with volunteers

Many charities rely on significant volunteer effort to raise vital funds for their work. As with your fundraising staff, you and your co-trustees should put systems in place to actively oversee the work of your fundraising volunteers. This will include ensuring that they:

- are clear about what they are supposed to do, through appropriate role descriptions
- are aware of the rules and boundaries within which they must work, for example, when representing or speaking on behalf of the charity
- work safely

- know what to do if there's a problem
- know what they need to report and who they report to

You should ensure that the charity has appropriate procedures and policies in place, so that volunteers get appropriate training, and know they must comply with policies and procedures.

Find out more about [managing your charity's volunteers](#).

You can also read more about [working with volunteers from the Institute of Fundraising Code of Practice](#).

5.3 Working with commercial partners

Working with [commercial partners](#) to raise funds can bring significant benefits to your charity, provided you identify and manage any risks.

You and your co trustees must put systems in place to make sure that your charity's arrangements with any commercial partner are:

- in the best interests of the charity
- fully compliant with the specific legal requirements that apply to these arrangements - these requirements include having an agreement with a commercial partner, which must be in writing, and cover specified matters summarised at [Annex 1](#)

Before deciding whether an agreement with a commercial partner is in your charity's best interests you should be satisfied that:

- the partner is a suitable and appropriate body to work with - a significant aspect of a trustee's legal duty to protect charitable assets, and to do so with care, means that you should carry out proper due diligence on those organisations that work closely with the charity - you need to decide on the level of [due diligence](#) and checks that are appropriate - this will help you to satisfy yourselves about the solvency, integrity and reputation of the partner and their ability to deliver to an acceptable standard
- the service provided by the partner relates to your charity's:
 - purposes
 - fundraising strategy and values
 - expectations of how its fundraising should be carried out
- the costs of the service are justifiable in the best interests of the charity
- the terms of the arrangement ensures that you have proper control of funds
- the terms of the arrangement will protect your charity against inappropriate risks, including to its:
 - reputation
 - finances
 - data
 - its name, image, logo etc
- you have systems in place to review and control any fundraising communications to be used such as scripts, written marketing material, advertisements, packaging etc

- you have systems in place to monitor compliance with the agreement
- the arrangement is free from any conflicts of interest which haven't been recognised and properly dealt with

Remember that:

- you must ensure that no legal document is signed unless you are satisfied that the terms are in the best interests of your charity - to do otherwise is a breach of duty
- you should take appropriate advice when you need to
- if you have an agreement with a commercial partner your charity is entitled to inspect the books records and other document which the partner holds about your charity for the purposes of the agreement - you should take advantage of this to ensure that your charity is obtaining a fair and full return from the arrangements

Find out more about working with commercial partners in the [Institute of Fundraising Code of Practice](#).

The Charity Finance Group and the Institute of Fundraising have produced guidance on [selecting and using online giving platforms](#).

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6. Protect your charity's reputation

This section is about protecting your charity's reputation from inappropriate risks. It tells you to identify the reputational risks your charity may face in its fundraising and to plan for their management. This is so that you can meet your legal duty to act in your charity's best interests.

Meeting your duty to protect your charity's reputation includes ensuring that your charity's fundraising:

- follows legal rules and standards
- is in line with its values
- respects donors and the public
- costs are explained and managed

6.1 Following legal rules and standards

Having systems in place so that your charity complies with the legal rules and recognised standards which apply to different types of fundraising activity will help to protect your charity's reputation. For example:

- there are rules and standards in the Code of Fundraising Practice about handling donors personal details
- you can use the Institute of Fundraising guidance on [treating donors fairly](#) if they are, or may be, in vulnerable circumstances

Further information can be found in [sections 8 and 9](#).

6.2 Complying with the charity's values

Many charities have developed explicit published values to help define and influence what they do and how they go about it. Whether your charity's values are implicit or explicit, you and your co-trustees have an important role in setting and protecting them.

To protect your charity's reputation you should make sure that:

- your approach to fundraising and your fundraising plan reflect the charity's values
- there are effective processes in place to communicate the charity's values to its fundraising employees, volunteers and fundraising partners so that they know how to represent your charity
- your charity's fundraising practice reflects its values

6.3 Showing respect for your charity's donors, supporters and members of the public

Fundraising activity should be developed with donor, supporter and public perception in mind as well as income expectations and other goals.

Following the legal rules and recognised standards which apply to different types of fundraising activity will help you to act responsibly towards your supporters.

To protect your charity's reputation, you and your co-trustees should assess, manage and monitor any risk to your charity's donor or public support when:

- setting aims for fundraising income
- employing particular methods of fundraising
- agreeing fundraising costs
- assessing and responding to criticism or complaints about your charity's fundraising, including complaints made about fundraising carried out for your charity by people outside your charity

6.4 Explaining and managing costs

There is no set amount that a charity should spend on fundraising costs and the commission recognises that costs can vary between different forms of fundraising, different causes and from year to year.

You and your co-trustees must be satisfied that your fundraising costs are in your charity's best interests. You should be able to explain your costs and be transparent about how money is spent and how your charity benefits.

Any effective charity will need to spend funds on both its general administration and on fundraising, but you and your co-trustees:

- should know how much fundraising costs, overall and for specific fundraising activities
- should ensure that the overall and specific cost of fundraising is reasonable, proportionate to the income and other benefits it produces, and in the charity's best interests
- must ensure that the costs are fair to the charity, before entering an arrangement with a professional fundraiser, commercial participator, or other third party
- should be transparent with donors, giving a fair indication about the extent to which the charity will benefit from their support:
 - often this indication will be given in the [solicitation statement](#) that professional fundraisers, commercial participators and other paid fundraisers are required to make to donors in a wide range of circumstances including in face to face, telephone, advertising and website fundraising
 - where these rules don't apply, but your charity is paying for a fundraising service, its reputation can be subject to unacceptable risk if it doesn't give donors a fair indication of the arrangement and its costs
- should be able to explain to donors, supporters and the public how your charity works and why its costs are necessary

Avoid mistakes - be able to justify your fundraising costs

Where an arrangement with a commercial partner is significantly boosting a charity's income it is easy for trustees to overlook other issues. But you and your co-trustees must be able to show that your agreement with any third party is in your charity's best interests and protects its reputation.

The commission is aware of models used by some fundraising companies which mean that the charity receives only a very small proportion of the money donated by the public, both at start-up and at later stages of the fundraising. These models can attract negative media coverage, complaints and regulatory intervention. This is because it can create the perception that the charity is being exploited or abused for private gain, and therefore mismanaged.

If you are considering an agreement with a commercial partner, be careful to balance your focus on increasing the charity's income with attention to its wider best interests. You should think about how the charity's supporters and the public might view your fundraising approach, if only a small part of their donation reaches the charity. You must be able to justify your fundraising costs and show how they are in the charity's best interests.

Remember you can take appropriate advice from a suitably qualified person if you need to.

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7. Manage money and other assets

This section is about managing and protecting your charity's money and other assets. It tells you that you should put systems in place to:

- plan and monitor your charity's fundraising finance
- ensure that there are robust and effective [financial controls](#), and that these are followed
- protect your charity from [financial crime such as theft or fraud](#)
- operate the [know your donor](#) principle, so that you are alerted to any suspicious donations
- take action to stop any unauthorised fundraising activity using your charity's name as soon as possible
- [report serious incidents](#) to the commission as soon as you suspect or are aware of them. You should also inform the police if appropriate

This is so that you can meet your legal trustee duty to manage your charity's resources responsibly and protect them from inappropriate risk.

7.1 Planning and monitoring fundraising finance

This will include setting a realistic budget for fundraising and providing the charity's fundraisers with the right level of training, resource and support to get the job done. You may need individual business plans and budgets for any new or significant fundraising activities or appeals.

The financial plan for your fundraising should:

- be properly costed and resourced allow you to understand, monitor and be able to justify your charity's fundraising costs
- balance any investment of the charity's money with the expected income, ensuring it is an appropriate investment
- ensure the charity receives [tax reliefs](#) to which it is entitled
- allow you to monitor the progress and financial performance of the charity's fundraising

You can find out more about financial management in:

- [Managing charity assets and resources](#)
- [Charity trustee meetings: 15 questions you should ask](#)
- [Financial difficulties in charities](#)

7.2 Managing assets and keeping them safe

You and your co-trustees must make sure that your charity's assets are properly used and protected. This means implementing financial controls and safeguards which are appropriate to your charity's size, activities and complexity.

The commission's guidance on [internal financial controls](#) explains more about:

- making sure that the charity receives all of the money to which is entitled, where people are given permission to raise money on your charity's behalf
- financial controls for income received from:
 - public collections
 - other fundraising and sponsored events
 - your trading activity
- identifying which funds you have raised have restrictions on their use - these funds must only be used in the way specified
- having a policy on donations which identifies when accepting donations may not be in the interests of the charity

You should also take steps to ensure that the other charity assets used in your fundraising are protected. This may include the charity's data, name, image, logo and intellectual property.

If you give people who fundraise for you official charity material such as badges, tins or tabards, you should ensure that everything is collected back promptly.

7.3 Fundraising fraud

Whilst the vast majority of charitable appeals and collections are legitimate, fundraising fraud does occur.

Find out more about [common types of fundraising fraud](#). You can also read the commission's [regulatory alerts](#) about risks and vulnerabilities that could affect your charity.

You and your co-trustees should draw up and put in place policies and procedures for the protection of your charity's property. What is appropriate will depend on the size and activities of the charity.

Find out more about protecting your charity's property from the commission's [Compliance toolkit](#). The toolkit includes a [detailed checklist](#) describing anti-fraud measures which your charity might find useful.

7.4 Suspicious donations

The commission is aware of cases where donations to charities have been used to facilitate money laundering or other criminal activity.

You and your co-trustees should:

- operate the [know your donor](#) principle, so that you are alerted to any suspicious donations
- have policies and procedures in place to ensure that staff and volunteers are aware of this risk - you and your co-trustees should be alerted to any suspicious donations

7.5 Intervening where an appeal is being run using your charity's name without permission

In many cases, an appeal may have been launched by a well-meaning member of the public who intends to donate the funds raised to your charity. They may not have contacted your charity prior to raising funds on your behalf, unaware that there are strict laws surrounding fundraising.

You and your co trustees should:

- put systems in place to contact the people running the appeal and, depending on the situation, either authorise the fundraising or ask them to stop
- be aware that, where your request is not met, fundraising law enables you to seek an injunction restraining someone from raising funds in the charity's name
- report unauthorised fundraisers who do not cooperate, and whom you suspect may be involved in fraudulent activities - the reporting should be to the police and the commission

Decisions about the charity's money and resources are important, so think about the advice and information you may need in order to make decisions in the charity's interests.

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8. Comply with specific fundraising rules

This section is about the range of legal rules that apply to different types and aspects of fundraising. When you and your co-trustees are planning your charity's fundraising you should find out in advance which laws and regulations apply. You must make sure, or put systems in place to satisfy yourselves, that your charity fully complies with any legal rules which apply to its fundraising.

You should [report a serious incident](#) to the commission if your charity is being investigated by the police or another regulator for any reason.

Find out more about the legal requirements which apply to fundraising from the [Code of Fundraising Practice](#) and [supporting guidance](#).

There is also a list of organisations that have a role in fundraising regulation in [Annex 3](#).

Each organisation produces guidance about specific obligations and how to comply. For example, the Information Commissioner's Office produces guidance for organisations about how to comply with data protection law.

You should consider taking independent advice from a suitably qualified person.

This list gives an indication only of some of the legal requirements which apply to different types and aspects of fundraising. In each case you can use the code and supporting guidance to find out more about the rules and how they apply to your charity's fundraising.

There are legal rules about:

- fundraising carried out for your charity by a commercial participator or professional fundraiser
- paid fundraisers making specified statements when asking for funds from the public
- larger registered charities displaying their registered charity status on a range of documents and on their website
- collecting cash in the street
- collecting cash, or goods or direct debit details door to door
- fundraising via a lottery or raffle
- handling personal details such as names, contact details and credit or debit details
- avoiding unsolicited calls to numbers registered with the Telephone Preference Service (TPS) and Corporate Telephone Preference Service (CTPS)
- fundraising involving children
- event fundraising
- commenting on your charity's fundraising activity when preparing charity accounts or reports which are subject to the Statement of Recommended Practice

Fundraising rules can be detailed and complex. You should consider taking appropriate advice.

There are some new legal requirements that will affect some fundraising charities if the Charities (Protection and Social Investment) Bill becomes law. These are summarised in [Annexes 1 and 2](#).

You should find out if your charity is affected by these new rules. You must make sure that your charity fully complies with them when they come into force.

9. Follow the recognised professional standards for fundraising

This section is about the recognised standards that apply to different types and aspects of fundraising.

All fundraising charities should comply with recognised standards. These are set out in the [Code of Fundraising Practice](#). The standards are developed and reviewed with input from fundraisers and members of the public. The aim of the standards is to ensure that charity fundraising is honest, open, respectful.

If your charity is a member of IoF or subscribes to the Fundraising Regulator, you must comply with recognised standards.

The Fundraising Regulator regulates charities' compliance with recognised standards. The final version of this guidance will describe the role of the Fundraising Regulator.

When you and your co-trustees are planning your charity's fundraising you should find out in advance which standards apply. You should make sure, or put systems in place to satisfy yourselves, that your charity complies with any standards which apply to its fundraising.

To find out more about the standards which apply to fundraising, you should look at the [Code of Fundraising Practice](#) and [supporting guidance](#).

You may also find out some information about standards from the organisations listed at [Annex 3](#) that have a role in fundraising regulation.

For example, the Committees of Advertising practice (CAP) provide advice and guidance on how on how to create advertising campaigns that comply with their code rules.

This list gives a few examples only of some of the standards which apply to different types and aspects of fundraising. There are standards about fundraising charities:

- using enclosures in direct mail packs
- ensuring that any third party fundraisers engaged by your charity comply with the [Code of Fundraising Practice](#)
- providing information to children and parents/guardians on how to fundraise safely
- carrying out a proportionate process of due diligence when engaging in a fundraising partnership with a business
- processing unsubscribe requests in a timely way
- not making marketing telephone calls under the guise of administrative calls
- ensuring that face to face fundraisers are properly trained
- making a record of the issue and return of any charity collection materials
- securing cash donations and banking them as soon as possible

There are some [code changes](#) that affect some fundraising charities.

You should find out if your charity is affected by these new standards. You should make sure that your charity complies with them.

10. Being open and accountable

This section is about you and your co-trustees being answerable for your charity's fundraising and explaining it clearly and openly. You must make sure that your fundraising is accounted for and reported on in line with any legal rules and requirements.

You should also put systems in place to ensure that your fundraising is:

- open to challenge by complainants
- clearly explained

This will help you and your co-trustees to be accountable for your charity's fundraising.

10.1 Complying with the accounting framework

Some larger charities must comply with particular rules and requirements about how they account for and report on their fundraising activity. These requirements are set out in the applicable Statement of Recommended Practice (SORP).

This is so that the readers of accounts and reports can understand what the fundraising activities were, how much was spent on raising funds, what was involved, and how the income raised assisted the work of the charity.

Smaller charities using the SORP might find some or all of this reporting useful to do as well.

If it becomes law, the Charities (Protection and Social Investment) Bill will introduce new reporting requirements on fundraising for larger charities. These are summarised at [Annex 2](#).

Find out more about [charity reporting and accounting](#).

10.2 Being open about complaints

You and your co-trustees should consider the benefits of having appropriate [procedures for dealing with complaints](#), and ensuring they are easy to find and easy to follow. You should:

- have a complaints procedure that is accessible, open and transparent
- address any concerns raised by the public, supporters or donors in a timely and direct fashion
- refer complainants who are dissatisfied with the charity's response to the Fundraising Regulator

10.3 Clearly explaining your fundraising

Clarity about the aims of your fundraising and the effectiveness of your charity may help to manage expectations from members of the public, donors and supporters about your fundraising. It is for you and your co-trustees to decide how to communicate about your charity's fundraising. Information on the following issues might be helpful to donors:

- the identity of your charity and what it does
- what the funds raised are for and how they will be used
- any secondary purpose of an appeal

- how to donate
- the Gift Aid arrangements
- what deductions will be made for expenses

Failed appeals

Being clear about the purpose(s) of an appeal is particularly important and it is worth giving careful thought to their wording.

If the purpose specified in the appeal cannot for some reason be achieved, or you raise too much or too little money, it can present difficulties which can only be resolved by the formal and often time consuming [processes](#). These difficulties can be avoided if proper attention is paid to the wording of appeals.

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11. How is fundraising regulated?

When completed following the consultation, this section will describe the system for regulating fundraising, which is principally self-regulatory, but which can involve commission intervention in fundraising if there is a breach of trustee duties. The commission anticipates that the timetable for final publication will mean that it can describe the new, rather than current, system for self-regulation and how this works with the commission's role.

The section will cover how the public can raise a concern or complaint about fundraising.

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12. Why is it important to follow this guidance?

12.1 The consequences of improper or poor fundraising practice

Where trustees don't manage their charity's fundraising in line with the law and recognised standards, or fail to balance their need to raise money with an approach which protects their charity from risk and harm, there can be serious consequences for the affected charity and for charities generally.

The consequences of improper or poor fundraising practice include:

- reputational consequences which can cause lasting damage to a charity and charities generally, with the potential to jeopardise the vital public support that charities rely on to fund their long term work
- legal consequences such as fines or penalties, or trustee liability if the charity incurs a loss as a result of a breach of trustee duty
- regulatory challenge or intervention which can be by the Fundraising Regulator, the commission, or other organisations and agencies with a role in regulating fundraising

The commission expects the trustees of fundraising charities to comply with their trustee duties and specific fundraising law, to follow recognised standards, and to approach their fundraising in a way that encourages public trust and confidence in charities.

The commission has written this guidance to help trustees meet these requirements and expectations. They can use the list at [section 13](#) to check their approach.

12.2 Commission intervention on fundraising issues

The nature of any commission's intervention will depend on the seriousness of the risk to a charity or charities generally. The commission will assess this using a [risk framework](#). The framework also sets out the different types of regulatory engagement that the commission has with charities where problems, poor practice or abuse have been identified.

Where trustees fail to act properly or make a mistake the commission always expects them to act promptly to put things right and prevent a recurrence of the same or similar issue.

Where trustee actions or failings present a serious risk to the charity, the commission is likely to regard this as mismanagement or misconduct and to take remedial action.

Intervention always depends on the seriousness of the issue and is sometimes undertaken alongside or in support of other agencies.

12.3 Fundraising issues that may be serious enough to trigger commission intervention

These include:

- serious risks to a charity's reputation or its other assets
- failure to protect and account for all funds raised
- weak governance or trustee oversight of the charity's activities, resources or reputation

- commercial participation/professional fundraising arrangements which do not comply with the law and which cannot be shown to be in the charity's best interests
- high fundraising costs that:
 - risk seriously undermining the charity's reputation
 - arise as a result of lack of oversight by the trustees
 - cannot be justified by the trustees as being in the charity's best interests
- damage to public trust and confidence caused by the charity's fundraising activities
- where conflicts of interest and private benefit have not been properly controlled
- serious and/or frequent failures in the conduct of fundraising (for example, persistent unlicensed fundraising or failure to provide required information) which put funds and reputation at risk
- methods of fundraising which are either inappropriate for a charity, or which would be a breach of trust and which pose a significant risk to public trust and confidence
- arrangements which amount to tax evasion or seek to exploit tax legislation artificially, including tax avoidance
- criminality which exposes related concerns about misconduct and mismanagement in the administration of a charity - for example fraud, theft, false accounting, tax fraud (including the making of fraudulent Gift Aid claims), or failing to obtain legal authority to fundraise

12.4 Commission's jurisdiction over funds raised as charitable appeals

Where funds are raised as charitable appeals for charities, or for charitable purposes, the commission will have jurisdiction over those funds and those holding the funds. It can intervene if necessary to ensure that funds are applied to the charities, or for the charitable purposes for which they have been raised.

Where funds are raised as charitable appeals, the sorts of issues that may be serious enough to cause the commission to intervene, sometimes alongside or in support of other agencies, are:

- where fraudsters misuse a charity's name, or otherwise use dishonest methods, to deceive the public into giving money
- when funds raised for charitable purposes or in the name of a charity are used, or at risk of use for private, illegal or other wrongful purposes
- where funds raised by other individuals or bodies for charities are not properly accounted for or at risk of loss or diversion
- where the commission's intervention is needed to protect public confidence

13. Controlling our charity's fundraising - a checklist for trustees

The questions in this checklist are designed to help charity trustees evaluate the charity's performance against the legal requirements and good practice recommendations set out in the commission's guidance for trustees on their duties in relation to fundraising. Trustees should review their charity's performance at least once a year.

Each of the questions on the checklist links to a paragraph of the guidance, where further details can be found. Not all the issues listed will be appropriate for all charities, for example, where a section of the checklist deals with an area of activity that the charity does not undertake then that section of the checklist will not apply.

Planning effectively (see [section 4](#))

We have set or agreed our fundraising strategy/plan.

It reflects:

- our charity's values
- the resources we use and the costs we incur in our fundraising
- the key financial and reputational risks we face

We discuss it at our meetings so that we can:

- monitor progress
- manage the risks

Supervising our fundraisers (see [section 5](#))

We have considered and decided which fundraising issues we will not delegate.

Our systems, which we regularly review, allow us to know that:

Our in-house fundraising staff:

- know what they are supposed to do, via written role descriptions
- are doing the job successfully

Our volunteers:

- know who they report to
- understand the boundaries within which they must work when representing our charity

Our agreements with our commercial partners:

- fully comply with relevant legal requirements (see [Annex 1](#))
- are in our charity's best interests because we have:
 - undertaken appropriate due diligence
 - communicated our fundraising strategy, values and expectations
 - made sure that the costs are justifiable and will be made clear

- got proper control of the money raised
- reviewed the fundraising communications to be used
- systems in place for monitoring compliance with the agreement
- recognised and dealt with any conflicts of interest

Protecting our charity's reputation (see [section 6](#))

Our systems, which we regularly review, allow us to:

- identify, assess and manage the reputational risks our charity may face in its fundraising
- follow the legal rules and recognised standards ([link](#)) which apply to our fundraising
- communicate our values to the people who work on our fundraising
- demonstrate our respect for our donors, supporters and members of the public
- manage and explain the costs of our fundraising

Protecting our charity's money and other assets (see [section 7](#))

Our systems, which we regularly review, allow us to:

- plan and monitor our fundraising finance
- have and follow effective financial controls
- protect our fundraising from financial crime and fraud
- be alert to suspicious donations
- stop (or authorise) any unauthorised fundraising activity using our charity's name
- report serious incidents to the commission, police and other agencies
- protect our data, name, image logo and intellectual property

Following the law and recognised standards (see [sections 8](#) and [9](#))

Our systems, which we regularly review, allow us to:

- use the [Code of Fundraising Practice](#) and other resources (see [Annex 3](#)) to find out about the legal rules and recognised standards which apply to our fundraising
- follow these rules and standards

Be open and accountable (see [section 10](#))

Our systems, which we regularly review, allow us to:

- comply with any legal rules and requirements that apply to how our charity accounts for its fundraising
- follow our open and accessible complaints procedures if concerns are raised about our fundraising
- clearly communicate our fundraising aims and achievements to our donors and supporters

14. Technical terms used in this guidance

This section explains some legal and technical terms used in this guidance.

The 1992 Act is the Charities Act 1992.

The 2011 Act is the Charities Act 2011.

The 1994 Regulations are the Charitable Institutions (Fund-Raising) Regulations 1994.

‘Beneficiary’ or ‘beneficiaries’ means a person or group of people eligible to benefit from a charity. A charity’s beneficiary group is usually defined in its governing document. Some charities call their beneficiaries clients or service users.

A ‘charity’ is any organisation set up under the law of England and Wales for solely charitable purposes.

The ‘commission’ means the Charity Commission, the regulator for charities in England and Wales.

A ‘fundraising agreement’ is a written agreement signed by both parties that sets out the objectives and terms under which a professional fundraiser or commercial participator may raise funds on behalf of a charity.

The ‘governing document’ is the legal document that sets out the rules that govern a charity. These include the charity’s objects and, usually, how it must be administered. It’s usually a trust deed, constitution, CIO constitution or articles of association. Some charities have a different type of document such as a conveyance, will, royal charter or commission scheme.

‘In the charity’s best interests’ means what the trustees believe will best enable the charity to carry out its purposes for the public benefit.

‘Misconduct’ includes any act that the person committing it knew (or ought to have known) was criminal, unlawful or improper.

‘Mismanagement’ may include doing something which:

- loses or misuses charitable resources
- undermines a charity’s reputation
- puts beneficiaries at risk

A charity’s ‘purpose’ is what it is set up to achieve (for example, relieving poverty or promoting health). A charitable purpose is one that:

- falls within one or more of 13 ‘descriptions of purposes’ listed in the Charities Act
- is for the public benefit (the ‘public benefit requirement’)

A charity’s ‘objects’ are a written statement of its purposes - they must be exclusively charitable.

‘Restricted funds’ are funds subject to specific trusts that fall within the wider purposes of the charity. Restricted funds may be restricted income funds, which may be spent at the discretion of the trustees in furtherance of some particular aspect of the purposes of the charity, or they may be endowment funds where the assets must be invested or retained for actual use rather than spent.

'Self-regulation' is the system for regulating the conduct of fundraising in which charities set and follow their own standards of fundraising practice, with the aim of making charities accountable for their fundraising.

A 'solicitation statement' is a statement that must be made by:

- professional fundraisers when soliciting funds from the public
- commercial participators when explaining how a charity will benefit from a promotional venture
- any other fundraiser who is not a volunteer when taking part in a public collection

The statement must explain the individual's or body's relationship with the charity and the payment that they or the charity will receive.

A 'suitably qualified person or adviser' is someone who the trustees could reasonably expect to be competent to advise them about a particular matter. This includes professional advisers (such as solicitors, accountants and surveyors). It could also include (for example) a member of the charity's staff, a suitably qualified trustee or an adviser from another organisation.

'Trustee' means a charity trustee. Charity trustees are the people responsible for governing a charity and directing how it is managed and run. The charity's governing document may call them trustees, the board, the management committee, governors, directors, or something else. The Charities Act defines the people who have ultimate control of a charity as the charity trustees, whatever they are called in the charity's governing document.

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Annex 1. A summary of current legal requirements which apply to a charity's arrangement with a professional fundraiser or commercial participator and those which will be introduced if the Charities (Protection and Social Investment) Bill becomes law

The summary of Bill content reflects proposed changes as of 3 December 2015.

Current requirements

Charities and the professional fundraisers or commercial participators with whom they work, must comply with certain rules that ensure transparency of the relationship to the public and protect the charity.

Where a charity uses a professional fundraiser to raise funds on its behalf, or enters an arrangement with a commercial participator whereby, for example, the public are encouraged to buy a particular product on the understanding that a donation to a particular charity will result, the rules specifically governing professional fundraisers and commercial participators apply. These rules are in the 1992 Act and the 1994 Regulations.

Professional fundraising or promotions by commercial participators which benefit a particular charity or particular charities, is not permitted unless there is a written agreement. The written agreement must be signed by all parties and include the following:

- the name and address of each party, the date, the duration of the agreement and the terms of the agreement's termination
- a statement of its principal objectives and methods used
- that the funds must be transferred to the charity as soon as possible
- that professional fundraisers and commercial participators acting for a charity must inform the giving public of the details of the charity for which they are collecting and how much the professional fundraiser or commercial participator is receiving
- that professional fundraisers must state the method by which their remuneration is to be calculated and the actual amount of this, if it is known, at the time the statement is made - otherwise the remuneration must be estimated and the estimate must be calculated as accurately as is reasonably possible
- that commercial participators must state for each product or item of service purchased by a member of the public the precise amount or the percentage of the price paid that will be given to the charity or charities, or must state the sum they are giving in connection with the promotional venture
- if more than one charity is a party to the agreement, it must contain a provision setting out how the proportion in which each of the charities is to benefit under the agreement is to be determined

The Office for Civil Society has produced [detailed guidance](#) on the requirements.

Requirements which will be introduced if the Charities (Protection and Social Investment) Bill becomes law:

- details of any fundraising standards or scheme for fundraising regulation that the professional fundraiser or commercial participator has voluntarily subscribed to
- how the professional fund-raiser or commercial participator will protect vulnerable people and other members of the public from behaviour which:
 - is an unreasonable intrusion on a person's privacy
 - is unreasonably persistent
 - places undue pressure on a person to give money or other property
- how the charity will monitor compliance with the agreement

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Annex 2. Summary of reporting requirements on larger fundraising charities which will be introduced if the Charities (Protection and Social Investment) Bill becomes law

The summary of Bill content reflects proposed changes as of 3 December 2015.

If section 144(2) of the Charities Act 2011 applies to a financial year of a charity, the trustees' annual report for that year must include a statement of each of the following for that year:

- the fundraising approach taken by the charity, or by anyone acting on its behalf, and whether a professional fundraiser or commercial participator carried out any fundraising activities
- details of any fundraising standards or scheme for fundraising regulation that the charity has voluntarily subscribed to
- details of any fundraising standards or scheme for fundraising regulation that any person acting on behalf of the charity has voluntarily subscribed to
- details of any failure by the charity, or by any person acting on its behalf, to comply with fundraising standards or scheme for fundraising regulation that the charity or the person acting on its behalf has voluntarily subscribed to
- whether the charity monitored the fundraising activities of any person acting on its behalf and, if so, how it did so
- the number of complaints received by the charity, or by a person acting on its behalf for the purposes of fundraising, about fundraising activity
- what the charity has done to protect vulnerable people and other members of the public from behaviour which:
 - is an unreasonable intrusion on a person's privacy
 - is unreasonably persistent
 - places undue pressure on a person to give money or other property

Annex 3. Organisations with a role in fundraising regulation

This section will describe, or link back to, an outline of role of each of the key bodies involved in self-regulation.

The fundraising activities and methods listed are subject to particular laws and regulation.

1. Lotteries, cash collections and collections of goods

The [Gambling Commission](#) regulates commercial gambling and the National Lottery. Its work includes licensing forms of gambling, such as lotteries, which raise money for good causes.

Local Authority Licensing departments grant licenses for collections by charities of cash or other goods, such as clothing. A license is usually required whether the collection is carried out in the street or door to door. Where the collection is in a London Borough (excluding the City of London), licenses are granted by [the Metropolitan Police](#). Collections in the City of London are licensed by the [City of London Corporation Licensing Service](#). The public can check with the charity itself whether a collection is licensed, or they can contact their local authority's licensing department.

2. Advertising and marketing

The [Advertising Standards Authority](#) is the UK's self-regulator for advertising across all media. Like all other advertisers, charities must ensure that their advertisements are not misleading, harmful or offensive.

[The Direct Marketing Commission](#) handles any complaints about how its members use direct marketing. They investigate complaints, keep an eye on direct marketing issues and practices, and provide guidance to the public.

[Ofcom](#) is the communications regulator for the TV and radio sectors, fixed line telecoms, mobiles, postal services, plus the airwaves over which wireless devices operate. With regard to [charity appeals](#), Ofcom has a number of rules in the Broadcasting Code to protect viewers and listeners.

3. Data protection

The [Information Commissioner's Office](#) (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. Good information handling and compliance with data protection legislation is relevant to a range of fundraising activities. ICO has compiled [advice and guidance](#) for charities which covers these topics.

4. Fraud

[Action Fraud](#) provides a central point of contact for information about fraud and financially motivated internet crime. If a charity or the public becomes aware of a charity scam, or are the victim of one, they should [report](#) it. They can also [contact local police](#), the local authority trading standards service, and the appropriate charity regulator.

5. Tax

[HM Revenue and Customs](#) (HMRC) is the UK's tax authority. Its work includes preventing and stopping tax avoidance and evasion.

6. Other charity regulators

The [Charity Commission for Northern Ireland](#) (CCNI) is the regulator of charities in Northern Ireland. [The Scottish Charity Regulator](#) (OSCR) is the regulator of charities in Scotland.