

Meeting of the Board of Governors

4.00 - 6.00 pm on Thursday, 12 July 2018
in 1B27 - Technopark, SE1 6LN

Agenda

<i>No.</i>	<i>Item</i>	<i>Pages</i>	<i>Presenter</i>
13.	Fundraising strategy / CC20 compliance	3 - 38	PB

Date of next meeting
10.00 am on Thursday, 27 September 2018

Members: Jerry Cope (Chair), Douglas Denham St Pinnock (Vice-Chair), Steve Balmont, Shachi Blakemore, Duncan Brown, Julie Chappell, Michael Cutbill, Nelly Kibirige, Kevin McGrath, Peter Fidler, Mee Ling Ng, Hilary McCallion, Jenny Owen, Tony Roberts and Nazene Smout

Apologies: David Phoenix

In attendance: Pat Bailey, Richard Flatman, James Stevenson and Michael Broadway

This page is intentionally left blank



GUIDANCE

Charity fundraising: a guide to trustee duties



Contents

1. Introduction	2
2. About this guidance	3
3. Take responsibility for your charity's fundraising - 6 principles at a glance	6
4. Plan effectively	7
5. Supervise your fundraisers	8
6. Protect your charity's reputation, money and other assets	12
7. Follow fundraising laws and regulation	17
8. Follow the recognised standards for fundraising	18
9. Be open and accountable	19
10. How is fundraising regulated?	21
11. Why is it important to follow this guidance?	23
12. Terms used in this guidance	25
Annex 1. A summary of legal requirements included in Charities Acts legislation and regulations	28
Annex 2. Sources of information	32

1. Introduction

Many charities need to ask the public for money. They rely on public generosity - an enduring feature of our society, but one that can never be taken for granted - 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 and responsible way and to use it effectively.

Charity trustees have overall responsibility and accountability for their charity and this includes its fundraising. They 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. Getting this right can be very rewarding, a valuable and visible result of a trustee's commitment to their charity, those that it supports and those that support it.

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

The Commission recognises the commitment required of trustees and the challenges they can face in getting fundraising right. It has updated this guidance to support them in discharging their responsibilities.

2. About this guidance

The purpose of this guidance is to help trustees comply with their legal trustee duties when overseeing their charity's fundraising. It sets out 6 principles to help them achieve this. These are summarised at **section 3**.

It focuses primarily on matters within the Commission's regulatory remit. It is not a guide to the wide range of laws and regulations that apply to specific types and aspects of fundraising, but it provides links to sources of information about these rules.

In addition to this guidance an accompanying **checklist** has been produced, which consists of a series of questions to help trustees evaluate the performance of their charity against the advice in this guidance. The **checklist** should be read in conjunction with the guidance. It can be used to identify those sections that are relevant to a particular charity.

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.

There is separate guidance about the fundraising rules in **Scotland** and **Northern Ireland**.

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 is carried out by the charity, by a subsidiary trading company fundraising on behalf of the charity, or by another person or organisation on the charity's behalf

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

The Commission also encourages other key people involved in charity fundraising to be familiar with the responsibilities of trustees set out in this guidance. These include senior charity staff and charity staff working on governance, compliance, controls and risk management; trading company directors and senior staff; and professional fundraisers and businesses and consultants working in fundraising. Members of the public can use this guidance to find out how fundraising is regulated and how to raise a concern or make a complaint about fundraising.

2.2 'Must' and 'should': what the Commission means

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:

Your legal duty	It's vital that you
Act in your charity's best interest	Deal with conflicts of interest
Manage your charity's resources responsibly	Implement appropriate financial controls Manage risks
Act with reasonable care and skill	Take appropriate advice when you need to, for example when buying or selling land, or investing (in some cases this is a legal requirement)

Trustees who act in breach of their legal duties can be held responsible for consequences that flow from such a breach and for any loss the charity incurs as a result. When the Commission looks into cases of potential breach of trust or duty or other misconduct or mismanagement, it may take account of evidence that trustees have exposed the charity, its assets or its beneficiaries to harm or undue risk by not following good practice.

Other terms used in this guidance are defined in **section 12**.

2.3 Fundraising and your trustee duties

First and foremost, it is you and your co-trustees who are legally responsible for your charity's fundraising.

Operating effective control over your charity's fundraising is a vital part of your compliance with your legal duties. Three of them are particularly relevant to this guidance:

- acting in the best interests of your charity
- managing your charity's resources responsibly, which includes protecting and safeguarding its reputation
- acting with reasonable care and skill

These duties are not new. They are part of your existing trustee duties. You should be familiar with the Commission's guidance on your trustee duties set out in **The essential trustee: what you need to know, what you need to do (CC3)**.

The trustee body should be made up of people who are able to devote time to running the charity and possess the appropriate skills and abilities.

You and your co-trustees can delegate day to day activities, and their management, to paid staff and others. This is normal practice in many charities and can help trustees to govern more effectively. This guidance recognises that many trustees, rather than carrying out day to day tasks and functions themselves, will have 'systems in place' for achieving this. But you cannot delegate your ultimate responsibility. Your systems and processes should allow you and your co-trustees:

- to hold others to account for how they carry out their role
- access to the right information and advice, to the appropriate level of detail, and in the best format; you and your co-trustees should have the ability and willingness to critically interpret and, where necessary, question the information you receive
- to be assured that your charity's fundraising is compliant with the fundraising approach that you have set, the standards required by your trustee duties, and wider law and best practice

The Commission expects trustees to take their responsibilities seriously. Using this guidance and ensuring you give sufficient time and attention to your charity's business will help. The Commission recognises that most trustees are volunteers who sometimes make honest mistakes. Trustees are not expected to be perfect - they are expected to do their best to comply with their duties. Charity law generally protects trustees who have acted honestly and reasonably.

3. Take responsibility for your charity's fundraising - 6 principles at a glance

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.

Taking responsibility for your charity's fundraising means:

Planning effectively

This is about you and your co-trustees agreeing or setting, and then monitoring, your charity's overall approach to fundraising. Your fundraising plan should also take account of risks, your charity's values and its relationship with donors and the wider public, as well as its income needs and expectations. See **section 4**.

Supervising your fundraisers

This is about you and your co-trustees having systems in place to oversee the fundraising which others carry out for your charity, so that you can be satisfied that it is, and remains, in your charity's best interests. It means delegating responsibly so that your charity's in-house and volunteer fundraisers, and any connected companies, 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 any specific legal rules and standards that apply. See **section 5**.

Protecting your charity's reputation, money and other assets

This means ensuring that there is strong management of your charity's assets and resources so that you can meet your legal trustee duty to act in your charity's best interests and protect it from undue risk. It includes ensuring that there is adequate consideration of 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 taking steps to reduce risk of loss or fraud. See **section 6**.

Identifying and ensuring compliance with the laws or regulations that apply specifically 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. There are new rules in the Charities (Protection and Social Investment) Act 2016 which affect some charities that fundraise. You should make sure that your charity has access to sufficient information and appropriate advice to ensure that its fundraising complies with all relevant legal rules. See **section 7**.

Identifying and following any recognised standards that apply to your charity's fundraising

These are in the Fundraising Regulator's **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. The Commission expects all charities that fundraise to fully comply with the Code. See **section 8**.

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 donors and supporters. See **section 9**.

4. Plan effectively

This section is about planning and monitoring your charity's fundraising. It tells you that you and your co-trustees should agree or set your charity's overall approach to fundraising. Your charity's values should be reflected in its planned fundraising activity, and there should be effective systems in place to monitor implementation of your plan.

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 developing plans, you and your co-trustees should be able to question, challenge and (if necessary) robustly discuss their proposals.

As a minimum, you and your co trustees should:

- decide your charity's overall approach to getting the resources it needs to fund its work (income generation)
- set or agree your charity's fundraising strategy - this is your plan for:
 - what funding your charity needs from its fundraising, now and in the future
 - why it is needed
 - how and when it will be achieved

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

- the fundraising methods to be used
- the resources your charity will use and the costs it will incur
- the financial, reputational and other risks your charity may face and how they should be avoided or managed
- how your charity's fundraising will reflect its values; some charities have developed explicit published values to define what they do and how they go about it - whether or not your charity's values are implicit or explicit, you and your co-trustees have an important role in setting and protecting them - this includes thinking about how you go about your fundraising activity so that you can express the needs of your charity to raise money for its work, whilst maintaining a positive and respectful approach to your donors and the wider public
- regularly monitor progress against the strategy you have set or agreed, looking carefully and critically at the areas of highest risk

You and your co-trustees must not expose your charity to undue risk. You should have effective systems in place to identify and regularly review the key 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 your fundraisers

This section is about the fundraising carried out for your charity by staff, volunteers and others - including trading subsidiaries and organisations your charity works with to raise money. It tells you to have effective systems in place to keep control of this fundraising.

5.1 Delegation to employees

If you and your co-trustees do not carry out the fundraising yourselves, it is likely to be run by your charity's staff or by other organisations. Where, as is normal practice in many charities, you decide to delegate the day to day management of fundraising to your employees, you should have effective systems in place so that:

- delegation is clearly documented (for example in staff job descriptions, volunteers' role descriptions and committees' terms of reference) understood and implemented
- clear reporting procedures are in place, which include guidance on any particular matters that are to be reported to the trustees
- there are checks that the delegated authority is exercised properly
- you receive regular and fully documented reports back on agreed matters, presented in a way 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 your systems and processes 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 have effective systems in place so that the work of the fundraising volunteers recruited by your charity is overseen. This is so that they:

- are clear about what they are supposed to do
- 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

There should be appropriate systems 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 in the Code of Fundraising Practice**.

5.3 Working with commercial partners

Working with commercial partners to raise funds can bring significant benefits to your charity, provided risks are identified and managed.

You and your co-trustees must have sufficient systems in place so that your charity's arrangements with any commercial partner:

- are in the best interests of your charity
- do not allow remuneration or reward for the commercial partner which is excessive in relation to the funds raised
- are fully compliant with any specific legal requirements that apply - for example, 'professional fundraising' or 'commercial participation' arrangements are subject to the requirements summarised at **Annex 1**
- make clear in any statement soliciting funds from the public for the charity:
 - the remuneration or reward to the commercial partner, or
 - how the funds raised will be distributed between the charity and the commercial partner

Before decisions are made about whether an agreement with a commercial partner is in your charity's best interests you should have effective systems in place to ensure 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 there should be proper **due diligence** checks on those organisations that work closely with the charity; ensuring that the appropriate level of research and checks are carried out will help you and your co-trustees to satisfy yourselves about the solvency, integrity and reputation of the partner and their ability to deliver to an acceptable standard
- the arrangement with the partner is consistent with your charity's:
 - fundraising strategy and values
 - expectations of how its fundraising should be carried out
- the fundraising to be carried out is for a purpose for which your charity is set up
- the costs of the arrangement are justifiable in the best interests of the charity
- the terms of the arrangement ensures that your charity has proper control of funds
- the terms of the arrangement will protect your charity against undue risk, including to its:
 - reputation
 - finances
 - data
 - name, image, logo and intellectual property

- there is appropriate review and control of any fundraising communications to be used such as scripts, written marketing material, advertisements, and packaging
- compliance with the agreement is monitored
- the arrangement is free from any conflicts of interest which haven't been recognised and properly dealt with, and from any unauthorised benefit to connected parties
- your charity has appropriate review processes to review arrangements to ensure they remain in the best interests of the charity throughout their duration

Remember that:

- no legal document should be signed unless the terms are in the best interests of your charity
- you should take appropriate advice when you need to
- if it has an agreement with a professional fundraiser or commercial participator, your charity is entitled to inspect the books, records and other documents which the partner holds about your charity for the purposes of the agreement - your charity should take advantage of this to ensure that it is obtaining a fair and full return from the arrangements

Find out more about working with commercial partners in the **Code of Fundraising Practice**.

5.4 Working through your trading company

Many charities own trading companies which are set up to raise funds for the charity.

Trustees must have systems in place to routinely monitor the performance of their trading subsidiaries and they need to remember, in all decisions made in regard to a trading subsidiary, that the best interests of the charity are paramount.

Find out more about subsidiary trading companies in **Trustees trading and tax: how charities may lawfully trade**.

In most instances, the Charities Act 1992 (the 1992 Act) excludes a charity's trading company from being a 'professional fundraiser' or 'commercial participator' where the company is raising money for the charity that owns it.

But even where a company is not required to comply with the 1992 Act, it should operate on a similar basis where this will allow the parent charity to:

- operate effective control of the fundraising, or
- provide transparency to its supporters, donors and the public about the fundraising arrangement

For example, the company:

- and the charity can formalise arrangements through a written agreement
- can make an appropriate solicitation statement - for instance, in a charity shop, by displaying a notice by the till indicating to customers that any profits which are made in the shop are given by the company which runs the shop to the charity which owns the company

The Office for Civil Society has produced **detailed guidance** on the current requirements of the 1992 Act.

Avoid mistakes - keep oversight of commercial partnerships made by your subsidiary trading company

Sometimes a partnership or agreement is made between a charity's subsidiary trading company and a commercial organisation, as part of the trading subsidiary's work to raise funds for the charity.

These arrangements can bring benefits for a charity and are not in themselves a cause for concern. But you and your co-trustees must have sufficient systems in place to oversee them.

This is so that, as with arrangements that your charity enters into directly, you and your co-trustees can be sure that the arrangement is in the best interests of your charity, properly protects its name and reputation and is subject to appropriate review and control.

You should have effective systems in place so that, where products or services are sold through or in the name of the charity, the nature of the commercial partnership and the fee or commission received by the charity is clear and transparent.

6. Protect your charity's reputation, money and other assets

This section is about your duty to manage and protect your charity's reputation and other assets from undue risk. It tells you to have effective systems in place to:

- identify the reputational risks your charity may face in its fundraising and to plan for their management
- plan for the charity resources which you will use to fundraise
- manage and be able to justify your fundraising costs
- protect the money raised in your charity's name

6.1 Protect your charity's reputation

Fundraising is often a key way in which charities interact with supporters, donors and the public. This means that a charity's approach to fundraising has the potential to significantly build or damage its reputation.

The reputational risks faced by a charity will vary significantly. You and your co trustees should have effective and appropriate systems in place to identify and manage the key reputational risks your charity may face from its fundraising.

Your approach to managing reputational risk from fundraising should include, but is not limited to:

- taking account of likely donor, supporter and public perception when deciding about income expectations and other goals - this includes assessing the reputational risks when using particular methods of fundraising and agreeing the level of your fundraising costs
- following the principles in this guidance so that:
 - legal rules and recognised standards are followed
 - there is effective control over:
 - your charity's fundraising approach
 - the fundraising that staff or other people or organisations carry out for your charity
 - the assets and resources you use and raise
 - your systems for assessing and responding to criticisms and complaints

Avoid mistakes - be able to justify your fundraising costs

Very high fundraising costs can seriously damage a charity's reputation.

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 should have effective systems in place for showing that your agreement with any third party is in your charity's best interests and protects its reputation.

Trustees should be aware that some fundraising companies use models 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 damage a charity. They can attract negative media coverage, complaints and regulatory intervention. This is because they 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 donors, 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.

Find out more about fundraising costs in **section 6.4**.

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

6.2 Planning and monitoring fundraising finance

You and your co-trustees should be fully aware of your charity's overall financial position and be able to demonstrate how fundraising supports its long term strategy for the achievement of its objectives. You should have effective systems in place so that:

- your charity's sources of income are analysed, to identify risks from over dependence on any one source
- there is a realistic budget for fundraising, against which results are monitored
- any investment of the charity's money is balanced with the expected income, ensuring it is an appropriate investment
- individual business plans and budgets are, where appropriate, drawn up for any new or significant fundraising activities or appeals
- the progress and financial performance of the charity's fundraising, including its costs and any risks, is monitored

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**

6.3 Managing assets and keeping them safe

You and your co-trustees should have effective financial controls and safeguards in place which are appropriate to your charity's size, activities and complexity. These include having systems for:

- making sure that the charity receives all of the money to which is entitled, where people are given permission to raise money on its behalf
- protecting income received from:
 - public collections
 - other fundraising and sponsored events
 - your trading activity
- clarifying to the public, and being clear internally, which funds you are raising on a restricted basis - these restricted 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
- ensuring complete and accurate returns are made so that the charity receives **tax reliefs** to which it is entitled
- protecting the other charity assets used in your fundraising. This may include the charity's data, name, image, logo and intellectual property

Avoid mistakes - operate effective control over cash collections

Although most people who fundraise and support charities have honest intentions, cash-based fundraising can be attractive to both opportunist and organised fraudsters. So you and your co-trustees must have adequate controls in place where you give permission for people to collect money on your charity's behalf. The fundraising must be compliant with any relevant legal rules and you should follow good practice for secure collection, counting, and banking of the money. This will help you to meet your legal duty to safeguard your charity's assets. It will also help reassure the public that they can donate safely to fundraisers and charities, and that funds will be applied for general charitable purposes.

Remember that if your charity gives people who fundraise for you official charity material such as badges, tins or tabards, there should be a record of this and everything should be collected back promptly. The charity's accounts must show the gross amount of funds raised before the deduction of any fundraising costs and expenses and these deductions must be shown as a separate expenditure item in the accounts.

You can find out more about controls for cash collections in **Internal financial controls for charities** and you can check your approach using the **checklist**.

6.4 Managing and explaining 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, overall, how much the charity's fundraising costs, and have systems in place for setting costs for specific fundraising activities
- have systems in place so that the cost of fundraising is justifiable - this means it should be proportionate to the income and other benefits it produces, and in the charity's best interests
- ensure that there are systems in place to ensure that costs are fair to the charity, before arrangements with a professional fundraiser, commercial participator, or other third party are entered
- have systems in place so that there is transparency for donors, giving them 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 must 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 in a solicitation statement or a statement in a similar form
- follow any requirements in the applicable Statement of Recommended Practice (SORP) about how fundraising costs are allocated and presented
- be able to explain to donors, supporters and the public how your charity works and why its costs are necessary

6.5 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.

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.

6.6 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 have effective systems in place so that:

- the **know your donor** principle is operated (for example, if your charity receives large donations, particularly anonymous or cash donations or with conditions attached)
- staff and volunteers are aware of this risk

You and your co-trustees should be alerted to any suspicious donations.

6.7 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. But the unauthorised use of a charity's name is a serious issue that could damage a charity's reputation.

Where unauthorised fundraising comes to your charity's attention, you and your co trustees should have effective systems in place to:

- contact the people running the appeal promptly; in some circumstances, such as a local cake sale or other small scale event, it may be appropriate to give permission to fundraise on the charity's behalf and provide some guidance to the organiser to ensure the collection is done legally - otherwise, your charity should formally authorise the fundraising or ask the organisers to stop
- be aware that, where your request is not met, fundraising rules allow you to seek an injunction restraining someone from raising funds in the charity's name - **find out more**
- 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.

7. Follow fundraising laws and regulation

This section is about the range of legal rules that apply to different types and aspects of fundraising. It tells you to have effective systems in place so that your charity fully complies with any legal rules which apply to its fundraising.

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

There are legal rules about:

- what is required of a professional fundraiser or commercial participator
- the statements that paid fundraisers must make, in some circumstances, when asking for funds from the public
- when charities must display 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
- lotteries and raffles
- data protection when collecting or handling personal details such as names, contact details and credit or debit card 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 (SORP)

Fundraising rules can be detailed and complex. You should consider taking appropriate advice and be satisfied that the people and organisations you authorise to fundraise for your charity are competent to comply with these rules.

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**. You may also find some information about legal rules from **Annex 1** and the organisations listed at **Annex 2**.

8. Follow the recognised standards for fundraising

This section is about the recognised standards, set out in the **Code of Fundraising Practice**, that apply to different types and aspects of fundraising. It tells you to have effective systems in place so that your charity complies with any standards which apply to its fundraising.

This list gives an indication 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 pretext 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
- not sharing personal data without explicit consent
- including opt-out information on fundraising communications sent to a named individual

The **Fundraising Regulator** regulates charities' compliance with recognised standards.

To find out more about the standards which apply to fundraising, you can look at the **Code of Fundraising Practice**. You may also find out some information about standards from the organisations listed at **Annex 2**.

9. Be open and accountable

This section is about your charity being answerable for its fundraising. It tells you to have effective systems in place so that your charity's fundraising is explained clearly and openly, fully complies with accounting and reporting obligations, and is appropriately open to challenge by complainants.

9.1 Complying with the accounting framework

Every registered charity must produce an annual report and accounts that explain where its money comes from and how the charity expended the funds.

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 SORP.

This reporting 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.

Reporting requirements, introduced by the 2016 Act, require larger charities to state what has been done to protect vulnerable people and other members of the public from behaviour, in the course of fundraising, which:

- is unreasonably intrusive or persistent, or
- involves placing undue pressure on a person to donate

Find out more about the 2016 Act in **Annex 1** and about **charity reporting and accounting**.

9.2 Being open about complaints

You and your co-trustees should have effective **procedures for dealing with complaints**, which are easy to find and easy to follow. Your systems should ensure that:

- there is a complaints procedure that is accessible, open and transparent
- any concerns raised by the public, supporters, donors or others are addressed in a timely and direct fashion

9.3 Clearly wording your appeals

When running appeals, information on the following issues is recommended:

- 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. Careful thought should be given to the terms and wording used in your appeal.

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 formal and often time consuming and costly processes. These difficulties can be avoided if proper attention is paid to the wording of appeals. Your wording should say clearly what will happen to any surplus funds and what will happen to donations if not enough funds are raised.

The Commission's guidance **Disaster appeals: Charity Commission guidance on starting, running and supporting charitable disaster appeals** includes general information about running and wording successful appeals.

10. How is fundraising regulated?

It is subject to a self-regulatory system which sets and enforces clear standards of conduct for fundraising.

The standards, which have been developed to ensure that fundraising is open, honest and respectful, are set out in the **Code of Fundraising Practice**.

10.1 The Fundraising Regulator's role

The **Fundraising Regulator**:

- regulates all types of fundraising by charities based in England and Wales
- uses the Code to adjudicate on concerns and complaints about fundraising
- uses its register to promote visible compliance amongst charities with the Code
- has sanctioning powers to use if necessary

10.2 Complaints about fundraising

Charities based in England and Wales

For charities based in England and Wales, the Fundraising Regulator deals with most types of complaints.

Anybody can contact the Fundraising Regulator to complain about fundraising.

If the Fundraising Regulator can't deal with a complaint, they will send it to the right body or help the complainant to contact them.

Charities based in Northern Ireland

Arrangements for fundraising regulation are currently being considered in Northern Ireland. Until arrangements are finalised, complaints about fundraising can be sent to the Fundraising Regulator (see contact details above) or, where the complaint extends to a charity's governance, to the **Charity Commission for Northern Ireland**.

Charities based in Scotland

For charities based in Scotland the self-regulatory system is being strengthened. Both the charity sector and the Office of the Scottish Charity Regulator (**OSCR**) will have enhanced roles. An independent panel is being developed to manage complaints that cannot be resolved by charities themselves. A **fundraising hub** has been created to deal with complaints or concerns about fundraising.

10.3 The Commission's role

The Commission does not regulate against the standards in the Code, but we do have a role in fundraising regulation where there is evidence:

- that trustee actions or failings, in fulfilling their duties towards their charity, pose a serious risk to the charity
- of a serious risk to charitable funds, or to public trust and confidence

In this role we will work closely with the Fundraising Regulator, and other regulators, to identify cases where, in addition to breaches of fundraising standards, these sorts of regulatory concerns may arise.

Find out more about Commission intervention on fundraising issues in section 11.

10.4 The role of other regulators

There are also other laws and regulations relevant to fundraising such as the rules on data protection, collections in public spaces and running lotteries. The rules for these are set and enforced by other regulators, including those listed at Annex 2.

11. Why is it important to follow this guidance?

11.1 The consequences of improper or poor fundraising practice

Where trustees don't keep 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, there can be serious consequences for the affected charity and, sometimes, for charities generally.

The consequences of improper or poor fundraising practice can be costly for a charity. They include:

- negative reputational consequences and complaints which can cause lasting damage to a charity and, sometimes, 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 charities that fundraise to comply with their trustee duties, specific fundraising law, and to follow recognised standards.

The Commission has written this guidance to help trustees meet these requirements and expectations. They can use the **checklist** to check their approach.

11.2 Commission intervention on fundraising issues

The nature of any intervention by the Commission will depend on the seriousness of the risk to a charity or charities generally. The Commission will assess this using its **risk framework**. This 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.

11.3 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 schemes
- 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

11.4 The Commission's jurisdiction over funds raised as charitable appeals

Where funds are raised as charitable appeals for charities, or for charitable purposes, the Commission has 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 are at risk of use for private, illegal or other non-charitable purposes
- where funds raised by other individuals or bodies for charities are not properly accounted for or are at risk of loss or diversion
- where the Commission's intervention is needed to protect public trust and confidence

12. Terms used in this guidance

12.1 Key terms in fundraising regulation

The **Fundraising Regulator** is the body responsible for adjudicating against the Code on concerns and complaints about fundraising.

The **Code of Fundraising Practice** (the Code) sets out the legal requirements and recognised standards which apply to different types of UK fundraising activity.

‘Self-regulation’ is the system for setting and making adjudications against the standards in the Code.

This guidance uses the term ‘recognised standards’ to refer to the standards included in the Code.

12.2 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 2016 Act is the **Charities (Protection and Social Investment) Act 2016**.

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

‘Applicable SORP’ is the term used to describe the SORP to be used by the charity to prepare its accounts on an accruals basis which is in effect for the financial year for which the accounts are being prepared. Find out more about the **Charities SORP**.

‘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.

‘Commercial participator’ means a commercial enterprise, rather than fundraising business, that takes part in a promotional venture, such as an advertising or sales campaign, where the public are informed that contributions will be given to or applied for the benefit of a charity. A commercial participator may be subject to the same regulatory requirements as professional fundraisers if all of its activities are for ‘charitable purposes.’

A third party may still be a commercial participator even if it enters into a contract with a subsidiary trading company (rather than the charity itself) if it is represented that the funds go to charity. A subsidiary trading company may be a commercial participator if it makes similar representations in relation to a charitable institution that does not control it.

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

‘Commercial partners’ includes, but is not limited to, professional fundraisers and commercial participators. It means any commercial organisation that the charity or its subsidiary trading company works or partners with to raise funds for the charity. The terms professional fundraiser and commercial participator are defined in this glossary.

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 purposes 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 2011 Act
- is for the public benefit (the 'public benefit requirement')

A 'professional fundraiser' is anyone who carries on a commercial fundraising business, wholly or mainly fundraising for charitable purposes; or any other person who is paid to solicit money or other property for charity. This does not include:

- a charity or a 'connected company'
- any officer or employee of the charity or connected company
- a trustee of the charity, acting as trustee
- any public charitable collector, other than promoters
- people who solicit funds on TV or radio
- any commercial participator
- anyone who is paid no more than £1,000 for a particular appeal, or no more than £10 per day or £1,000 per year where there is no specific appeal

'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.

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.

‘Subsidiary trading company’ means any non-charitable trading company owned by a charity or charities to carry on a trade on behalf of the charity (or charities), including a company which is wholly owned by a charity or more than one charity, even if it is not technically a ‘subsidiary’ of any of the charities which own it.

‘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 2011 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.

‘Values’ mean 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, the other people it works with, and the public - 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.

Annex 1. A summary of legal requirements included in Charities Acts legislation and regulations

1. Working with professional fundraisers and commercial participators

Where a charity uses a professional fundraiser to raise funds on its behalf, or enters an arrangement with a commercial participator, specific rules apply. They require:

- written agreements between charities and professional fundraisers/commercial participators which comply with specific requirements
- professional fundraisers, commercial participators, and charity staff paid to fundraise in public places to make a solicitation statement satisfying certain requirements
- some larger charities to include statements about their approach to professional fundraising/commercial participation in their annual report

The Office for Civil Society has produced **detailed guidance** on these requirements.

1a. Written agreements

Professional fundraising or promotions by commercial participators are 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 following items will be required to be included in the written agreement when the 2016 Act is implemented on 1 November 2016:

- details of any fundraising standards or scheme for fundraising regulation that the professional fundraiser or commercial participator has voluntarily subscribed to
- how the professional fundraiser 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

Written agreements - transitional guidance for 2016 Act requirements

The requirements introduced by the 2016 Act will apply from 1 November 2016.

However, until 31 March 2017, the Fundraising Regulator will take a flexible approach in its expectations of updated agreements between charities, professional fundraisers and commercial participators to take into account reasonable contingency arrangements which may be required as a consequence of the new duty.

Right to inspect books and records

The 1994 Regulations require professional fundraisers or commercial participators who are parties to agreements with charities to keep and to make available to the charity on request and at all reasonable times, any books, documents or other records (however kept) which relate to the charity AND kept for the purposes of the agreement.

1b. Solicitation statements

Paid fundraisers, including charity staff, trustees who are paid, professional fundraisers and commercial participators, must declare their status by making a solicitation statement when requesting money or property for the benefit of one or more charities.

Most fundraisers are obliged to make solicitation statements, including:

- professional fundraisers when requesting money or property for the benefit of one or more charities
- commercial participators when representing that the contribution will be made to one or more charities during a promotional venture
- other paid fundraisers engaged in door-to-door or street collections, such as trustees, officers and employees who are officially acting on behalf of their charity (or a connected company) who are paid for collecting

A paid fundraiser must state:

- for which charity or charities they are fundraising, or, if relevant, that they are fundraising for charitable purposes and not for the benefit of a specific charity or charities
- the proportions in which the charities will benefit (if they are fundraising for more than one charity) or how the proceeds of the appeal will be distributed to different charities (if they are fundraising for charitable purposes)

- whether they are an officer or employee of a charity or connected company or trustee of such an institution and are acting as a collector in that capacity
- that they are paid for acting as an officer, employee or trustee, or for acting as a collector

A professional fundraiser, in addition to the above requirements, must state how their remuneration, in connection with the appeal, is to be calculated and the amount of that remuneration.

Commercial participator solicitation statements vary from other paid fundraisers. A commercial participator must clearly indicate:

- which charity or charities will benefit from the promotional venture
- if there is more than one charity that will benefit from the venture, in what proportions the charities will respectively benefit
- what proportion of the proceeds of the goods, services or promotional venture sold will be given to the charity or charities, or the total amount of the donation given to the charity as a result of sale of goods, services or running the promotional venture

1c. Reporting on professional fundraising/commercial participation arrangements

The 2016 Act requires some larger charities to include new statements in the trustees' annual report which cover, but are not limited to, their arrangements with professional fundraisers or commercial participators. These new requirements are outlined next.

2. Reporting requirements for larger charities that fundraise

Every registered charity must produce an annual report and accounts that explains where its money came from and how the charity expended the funds.

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 SORP. The following requirements are added for some charities by the 2016 Act:

If section 144(2) of the 2011 Act 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

The reporting requirements introduced by the 2016 Act apply to accounting periods beginning on or after 1 November 2016.

3. Other Charities Acts requirements and provisions

Statements about charitable status

The 2011 Act requires registered charities with an income above £10,000 a year to state they are a registered charity on a range of documents including on their website, advertisements and other documents such as receipts. This requirement extends to any notices, advertisement or documents used to fundraise. There are additional rules for charities that also operate in Scotland.

Failed appeals

An appeal for funds can fail if it raises insufficient funds or funds in excess of the purpose of the appeal. If an appeal for a specific purpose does not raise sufficient funds, donors may be entitled to a refund. If it raises excess funds, legal authorisation or a scheme, made under the 2011 Act, from the Commission may be needed before the excess funds can be directed to a similar purpose.

Find out more about failed appeals in **Disaster appeals: Charity Commission guidance on starting, running and supporting charitable disaster appeals**.

The 1992 Act contains special requirements about written statements and refunds in relation to telephone fundraising and broadcast appeals. Where a donor pays £100 or more to a professional fundraiser or commercial participator, regardless of the amount received by the charity, the donor has the right to a refund if it is requested within seven days of either receiving the required written statement from the telephone fundraiser or of the broadcast appeal.

Find out more about these rules in Office for Civil Society guidance **Charitable Fundraising: Guidance on Part 2 of the Charities Act 1992**.

Injunctions

The 1992 Act and the 1994 Regulations enable charities to seek an injunction restraining someone from raising funds in the name of the charity where any of the following apply:

- the fundraiser is using methods to which the charity objects
- the fundraiser is not a fit and proper person to raise funds for the charity
- the charity does not wish to be associated with that fundraising venture

Find out more about the rules in the 1992 Act and 1994 Regulations in Office for Civil Society guidance **Charitable Fundraising: Guidance on Part 2 of the Charities Act 1992**.

Annex 2. Sources of information

Organisations with a role in fundraising regulation

Compliance with the Code of Fundraising Practice

The **Fundraising Regulator** is the body responsible for supervising charities' compliance with the Code and adjudicating on complaints.

The **Institute of Fundraising (IOF)** is the membership organisation for fundraising professionals and fundraising organisations and provides supporting guidance and information.

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.

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.

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.

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. All fundraising that involves recording or taking down personal details is subject to data protection laws. Charities that use face-to-face fundraising, online fundraising, direct mail, events, broadcast or telephone fundraising and which handle personal details such as names, contact details and credit or debit card details should be aware of and comply with the Data Protection legislation and rules. ICO has compiled **advice and guidance** for charities which cover these topics.

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.

Tax

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

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. Some charities in England and Wales are exempt from registration and direct regulation by the Commission. Their trustees have the same basic responsibilities as those of a registered charity, but some Charities Act requirements don't apply. Most, but not all, exempt charities now have **principal regulators**, responsible for overseeing their compliance with charity law.

Guidance referred to in this publication

Commission guidance

The essential trustee: what you need to know, what you need to do

Charities and risk management

How to manage your charity's volunteers

Trustees trading and tax: how charities may lawfully trade

Managing charity assets and resources

Charity governance, finance and resilience: 15 questions trustees should ask

Financial difficulties in charities

Internal financial controls for charities

Disaster appeals: Charity Commission guidance on starting, running and supporting charitable disaster appeals which includes general information about running and wording successful fundraising appeals

Charity reporting and accounting: the essentials March 2015

Charities: due diligence checks and monitoring end use of funds

Protecting charities from harm: compliance toolkit

How to report a serious incident in your charity

Risk framework: Charity Commission

Regulatory alerts: Charity Commission

Other key guidance referred to

The Fundraising Regulator's **Code of Fundraising Practice**.

The **detailed guidance** on the current requirements of the 1992 Act produced by the Office for Civil Society.

This page is intentionally left blank