

Fundraising Regulator Code of Conduct Digest for branches and groups

The Fundraising Regulator is the national body set up to hold fundraising to account. When it was created it took over both the Fundraising Standards Board's role as well as the Institute of Fundraising's Code of Conduct.

Not only does the Code of Conduct highlight our legal obligations but also is a code that we have agreed to as a responsible charity. By agreeing to this code, we have bound all staff, volunteers, third party fundraisers and voluntary fundraisers to adhere to the standards that it sets out.

Context

We have reviewed the code for the purpose of branches and groups and created a digest of the recent updates as well as a reminder of pertinent points which were pre-existing. The full document is 118 pages, we have reduced the number of pages down to 9.

We would recommend that all branches familiarise themselves with the entire code in time as fundraising practice can vary and branch volunteers often can take the initiative to open new avenues of fundraising.

In the meantime, below is a selection of relevant sections of the code for yourselves to read. Our notations and context are in purple, direct quotations are in grey. Please note, any **Bold** text denotes legal responsibilities as opposed to voluntary commitments and best practice.

Code excerpts

Who is included? Importantly here, this code covers all volunteers:

- A third-party fundraiser which asks for money or other property for charitable, benevolent or philanthropic purposes. 'Third-party fundraiser' means an organisation or person a charitable institution has authorised to ask for donations on its behalf. This may be a volunteer, professional fundraiser or commercial partner if they are fundraising.

Our commitment - We are all bound by these rules, as stated below. By registering with us, charitable institutions, third-party fundraisers and online fundraising platforms agree to meet the code. In doing so, they support the system of voluntary regulation to make sure that all fundraising organisations work in line with the code's values.

Behaviour when fundraising – oddly, the Fundraising Regulator is specifying how we should behave. Especially around questioning who is donating.

1.1.2 You must be polite to people at all times.

1.1.3 You must not unfairly criticise or insult other people or organisations.

1.1.4 You must not encourage a donor to cancel or change an existing donation in favour of a donation to another charitable institution.

1.2.1 While reasonable persuasion is allowed, you must not fundraise in a way which is an unreasonable intrusion on a person's privacy, is unreasonably persistent or places undue pressure on a person to donate.

1.2.2 You must not continue to ask a person for support if that person clearly indicates – by word or gesture – that they do not want to continue to speak to you. You must end the conversation in a polite way.

1.3. Informing donors and treating people fairly

1.3.1 You and the fundraising materials you use must not mislead anyone, or be likely to mislead anyone, either by leaving out information or by being inaccurate or ambiguous or by exaggerating details.

1.3.2 Before you make any direct or implied claim in your fundraising which is likely to be taken literally, you must make sure that there is evidence to prove the claim.

1.3.7 You must take into account the needs of any possible donor who may be in vulnerable circumstances or need extra care and support to make an informed decision.

1.3.8 You must not exploit the trust, lack of knowledge, apparent need for care and support or vulnerable circumstance of any donor at any time.

1.3.9 You must not take a donation if you know, or have good reason to believe, that a person lacks capacity to make a decision to donate or is in vulnerable circumstances which mean they may not be able to make an informed decision. Among other things, you should consider:

- any physical or mental-health condition the person may have;
- any disability the person may have;
- any learning difficulties the person may have;
- whether the person is facing times of stress or anxiety (for example, following the death of a loved one or redundancy);
- whether a donation is likely to affect the person's ability to sufficiently care for themselves or leave them in financial hardship;
- how well the person can communicate and understand what they are being told;
- whether the person is under the influence of alcohol or drugs; and
- the person's age.

1.3.10 If a donor makes a donation while they do not have the capacity to make an informed decision, you must return the money to the

Accepting, refusing and returning donations

Branches and groups should make themselves aware of the MND Association's policy on refusing donations, such as the decision not to accept donations from sports involving direct targeting of blows to the head. Contact your Regional Fundraiser or MND Connect if you are unsure about refusing or returning donations.

2.3.1 You **must not** refuse or return donations, except in exceptional circumstances

2.3.4 You must only refund donations in line with your charitable institution's policies or in exceptional circumstances. If it is unclear whether or not you should give a refund, consider getting legal advice.

2.3.5 You must give a refund if a donor correctly exercises their right to one.

Using funds

Branches and groups must ensure that the donors wishes about where and how their donation are used are upheld and recorded and *must not* suggest restrictions. We suggest when donors wish to restrict their funds that a detailed conversation takes place around the question "what if we can't spend your money/can't spend it soon in that specific area of work".

A donation must be used for the purpose for which it was given. If you want to change that purpose you should get advice from legal advisers or the relevant national statutory regulator before changing the purpose, even if the person making the donation has given you permission to do this.

2.7.1 You **must** use all funds raised for a particular cause for that cause.

2.7.2 You **must** make sure that donations are used to support the cause in line with any conditions attached to the donation. These may be conditions the donor sets when making the donation or representations you make (either verbally or in fundraising materials) about how the money will be used.

2.7.3 You must keep a record of donations that are given for specific purposes to make sure that you keep to the conditions of the donation.

2.7.4 You must make sure that you do not suggest money is for a restricted purpose (such as buying a goat, or helping a particular child) when it may be used for a different purpose or for the general purposes of a charitable institution.

Data

Whilst GDPR training has occurred, this affirms our commitment here as well as some specific additional rules.

3.1.1 You **must** meet all legal requirements relating to data protection, including:

- the Data Protection Act 2018;
- the General Data Protection Regulation (GDPR); and
- the Privacy and Electronic Communications (EC Directive) Regulations (PECR) 2003, including the requirements of the Telephone Preference Service (TPS), and any revisions to e-privacy legislation that result from the European Commission's review of PECR that began in 2017

3.1.4 When processing personal data (including information that is available to the public) for any purpose, you **must**:

- have a lawful basis (a valid legal reason) for collecting, using and keeping the personal data (for more information on the grounds (or 'conditions') for processing personal data, see articles 6 and 9 of the GDPR);

3.2.1 You **must** make sure that all materials, in particular filled-in donor forms, are stored securely and in line with your obligations under data protection law.

3.2.2 You **must** make sure that data you keep about donors is accurate and reflects their communication preferences, and only keep it for as long as is necessary for:

- the purpose or purposes you are processing it for;
- purposes compatible with these stated processing purposes; or
- a purpose that is allowed by law and is in the public interest.

Processing donations

Most branches and groups will be handling cash and possibly collecting donations in sealed containers or collecting boxes and must follow instructions below to prevent any possible accusations of misappropriating funds collected. Take this as an opportunity to consider how to handle cash collected at events.

4.1. Cash

In this section, 'you' means a charitable institution or third-party fundraiser, unless we tell you otherwise.

4.1.1 You must not leave unsecured cash unattended.

4.1.2 You must count cash in a secure place.

4.1.3 You must make sure that all cash you have collected is counted and recorded by two unrelated people, wherever possible.

4.1.4 You **must** make sure that cash donations are placed in a sealed container or collecting box. If you are collecting in Scotland or Northern Ireland, or in a licensing authority which follows the model regulations in England and Wales for street collections, you **must** do this.

4.1.5 You must make sure the promoter of the collection (for example, a charity's fundraising manager) and one other responsible person or an official of a bank are present when you examine and open collecting boxes for licensed collections in a public place. If the licensing authority is following the model regulations in England and Wales for street collections, you **must** do this.

4.1.6 For collections on private land, if it is not practical for you to open and count collecting boxes, you must have effective procedures and instructions for the person who owns or manages the site to count, record and bank or deliver the money in the boxes.

4.1.7 If you do not bank cash immediately, you must put it in a safe or other secure place.

4.1.8 You must bank cash as soon as possible. To help with this, you must have a procedure for banking donations, including who does it and when.

4.1.9 You must check that the cash you have banked matches your income summaries, as soon as possible. If possible, someone who is not involved in counting or cashing up the money must do this.

4.1.10 You must send the charitable institution (or institutions) the full amount taken from all collecting boxes without taking any expenses or fees, unless these have been agreed beforehand.

4.1.11 If you are a professional fundraiser or commercial participator, you (and people fundraising for you) **must not** take any money from cash you (or they) receive.

4.1.12 You **must** meet any extra rules local authorities set about making deductions from collections

Floats

At some fundraising events floats may be required to give change back to donors and it is important they managed as below

4.3.1 A person you have nominated must sign for your floats.

4.3.2 You must keep floats and any money made from sales separate from the cash handler's personal money.

4.3.3 If you use money from a float for petty-cash spending, you must record this separately and keep any receipts

Receipts

4.4.1 If you do not use a sealed collecting box, the collector must issue and sign a receipt for the donated amount.

4.4.2 If you are collecting on a private site, you must give the person who owns or manages the site a receipt if they ask for one. The receipt should include the address of the site, the box number, the date and the amount collected

Working with Volunteers

Anyone fundraising "In Aid" of our charity must be aware of their liabilities as below

5.3.1 If you are aware of their activity beforehand, you must tell in-aid-of volunteers that:

- they must use the expression 'in aid of' your charitable institution when fundraising, to distinguish their fundraising from yours; and
- they are responsible for organising all aspects of their fundraising and that you will not accept any liability relating to their fundraising.

Fundraising Involving Children

It is important that branches and groups are aware of their responsibilities when in contact with children. Some of those responsibilities vary in the City of London

6.1.6 You must only contact children on school premises if you have the approval of the head teacher or a member of the school's staff chosen by the head teacher, and you must follow any procedures you have agreed with them.

6.1.7 You must get permission before taking or publishing photographs of children. If the child is over 13 year's old, they can give this permission themselves. If they are under 13, you must get permission from their parent or guardian.

6.1.8 You **must not** allow anyone under the age of 16 to carry out house-to-house collections, unless the collection is taking place in the City of London, in which case, you must not allow anyone under the age of 18 to take part. You must not allow anyone under 16 to carry out street collections, except in London where, if you have special permission, you can use street collectors aged 14 or over.

Fundraising with Goods or % of services

If anything is being sold with proceeds going towards your branch or group, please consider what agreements need to be in place as detailed below.

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7.2.4 You must have review procedures in the agreement. You must consider the third-party fundraiser's performance at these reviews and decide whether further action is appropriate (such as reviewing the agreement or activating any penalty clauses that may be part of the agreement). In England and Wales, you must meet this standard. For more standards on reasonable monitoring arrangements as part of a contract or agreement, see section 7.3 Monitoring that fundraisers are meeting the code.

7.2.5 If the third-party fundraiser will be selling goods or services, there must be a written agreement governing the relationship between the charitable institution and the third-party fundraiser (even if this is not strictly needed under the relevant acts).

- Before the agreement begins, it must be considered, negotiated and agreed by authorised representatives of both the charitable institution and the third-party fundraiser.
- The charitable institution and the third-party fundraiser must approve and understand the agreement.

7.2.8 The agreement **must** give:

- the names and addresses of all the people and organisations the agreement is between (the parties to the agreement);
- the date on which each party signed the agreement and the length of the agreement;
- any terms which relate to ending the agreement early or making changes to it;
- a statement of the main aims of the agreement and how the parties will achieve those aims;
- terms for paying fees and expenses to the professional fundraiser; and
- if more than one charity is involved, details of how the funds raised will be shared between them.

7.2.16 It is against the law for a commercial participator to claim, as part of a promotional venture, that they will give money to a charitable institution, unless this claim is in line with a written agreement they have in place with the charitable institution they are raising funds for.

The agreement must be in writing and signed by or on behalf of both the commercial participator and the charitable institution they are raising funds for.

7.2.17 The agreement **must** give:

- the names and addresses of all the parties to the agreement;
- the date on which each party signed the agreement and the length of the agreement;

- any terms which relate to ending the agreement early or making changes to it;
- a statement of the main aims of the agreement and how the parties will achieve those aims;
- if more than one charitable institution is involved, details of how the funds raised will be shared between them;
- details of what proportion of the price of the goods or services will be given to you or how much money the commercial participator will donate in connection with selling or supplying the goods or services; and
- how much the commercial participator will receive as payment or for expenses.

7.3.2 You must make all reasonable efforts to monitor whether the paid third-party fundraisers or commercial partners are keeping to the agreement you have with them (including the conditions of the contract which relate to keeping to the code).

7.3.4 A professional fundraiser or commercial participator **must** pass on funds to you as soon as reasonably possible, and in any case within 28 days, unless they have a reasonable excuse.

7.4.7 Commercial participators **must** make a solicitation statement whenever (and wherever) it is stated or implied in the course of a commercial promotional venture that money will be paid to one or more charitable institutions or used for charitable, philanthropic or benevolent purposes.

7.4.8 The solicitation statement **must** give:

- the name of the charitable institution or institutions;
- if there is more than one charitable institution, details of how much of the funds will be shared between them; and
- the sum (or, if it is not possible to calculate accurately beforehand, the amount believed to be as accurate as possible) of whichever of the following apply.
- The amount of the cost of the goods and services that will be given to or used for the benefit of the charitable institution or institutions
- The amount of any other proceeds of the promotion that will be given to or used for the benefit of the charitable institution or institutions
- The amount of the donations made in connection with the sale or supply of goods and services that will be given to or used for the benefit of the charitable institution or institutions

Collecting Money

You may regularly collect money on streets. Take the time to read what is permissible. Some of this has been recently updated.

8.1.1 While fundraising, you must not:

- act in any way that might reasonably cause members of the public to be or become startled or anxious;
- act dishonestly or manipulatively, or deliberately try to make a potential donor feel guilty; or
- act in any other way that a reasonable person might consider would damage the charitable institution's reputation. This includes:
- smoking or drinking alcohol while wearing clothing that contains a charitable institution's branding;

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- taking or being under the influence of illegal drugs;
- lewd or aggressive behaviour, including swearing, while wearing clothing that contains a charitable institution's branding;
- putting undue pressure on members of the public to donate;
- exploiting your position for personal gain (for example, asking for a job, asking someone for a date, or asking for a discount on goods or services); or
- any other behaviour that harms the reputation of the fundraising profession or the charitable institution you are representing.

8.1.2 You must avoid causing an obstruction, congestion and nuisance to the public. You must not deliberately block the path of members of the public.

8.1.6 Unless this is authorised under an agreement with a private site, you must not approach members of the public who are:

- seated, unless the seating is part of a charitable institution's promotional stand; or
- in queues, unless the queue is directly related to the fundraising activity.

8.1.7 You must not knowingly approach people who are carrying out official duties, such as uniformed officials while they are on duty or people who are clearly working.

8.1.8 You must not obstruct, interfere with or disrespect members of staff from local businesses.

8.2.1 If you are a charitable institution collecting on public land, you **must** get a licence or permit from the relevant authority to collect in that area, unless the relevant authority does not require you to hold a licence for your activity.

8.2.2 If you are a charitable institution, you **must** apply for licences in good time before the collection is due to take place.

- if required (for example, by the person issuing the permit), you able to provide full details of all collectors in a certain area, including their names, addresses and phone numbers, the precise area to be covered and the exact period during which the collector is authorised to collect.

8.2.6 You must make sure that materials include contact details for the charitable institution and the collector, if different.

Collections on Private Sites

Branches and groups must be aware of where they are making collections and if on a private site must ensure it is approved, recorded carried out correctly as below e.g. Underground/Train Station, Pub or Supermarket collections

8.4.20 You **must** have permission from the property owner or manager to collect and **must** keep to the dates, times and areas allowed for collecting.

8.4.21 You must record all bookings and include the full name of the person you made the booking with, the dates that were agreed and the type of activity that was agreed. You must keep these records for at least 28 days.

8.5.1 If you are the organiser of the collection, you **must** get the permission of the site owner or those with authority to give you permission to hold a static collection on the site. The permission must be in writing.

8.5.2 If you are the organiser of the collection, you must give a letter, certificate of authority or badge to anyone you have authorised to collect on your behalf. The letter, certificate or badge should contain information that identifies them as a collector and identifies any organisations carrying out or benefiting from the collection. The specific information that must be included for different categories of collector is as follows.

- For collectors who are directly employed by the charitable institution benefiting or who are acting as on-behalf-of volunteers:
- the collector's name;
- the name and contact details of the charitable institution benefiting from the collection; and
- the name of the organiser (if different to the collector or charitable institution benefiting from the collection).

8.5.3 If you are the collector, you must have a letter, certificate of authority or badge as described above.

8.5.4 If you are the collector, you must show your certificate of authority to the site owner or those with authority to grant permission to hold a static collection on the premises.

8.5.5 If you are the collector, you must make it clear to the site owner or those holding a static collection on the premises that if a box is lost or stolen, or if they want to end the collection, they need to contact you (preferably in writing).

Using Online Platforms

Consider how any online page reflects where the money is to go. Without this you are unable to restrict these funds to your branch or group.

- Whether the money raised is for a specific purpose or for the person receiving it to use as they see fit. If the money is for a charitable institution and will be used for a specific purpose, fundraisers must contact the charitable institution to make sure they are aware and happy to receive the money for this purpose. For more standards on money given for restricted purposes, see section 2.7 Using funds.

Event Fundraising

Branches and groups must ensure any event promotional material reflects where the money is being used particularly if part is used for expenses

11.5.1 In all promotional materials about taking part in an event, particularly materials sent as part of 'fundraising packs', you must clearly indicate if any part of the money a person taking part raises will be used towards their expenses or otherwise to benefit them.

Lotteries, prize draws and free giveaways

Branches and groups sometimes use raffles, tombola's, sweepstakes etc. to raise funds but must adhere to the code below and be aware that these type of activities are classed as gambling

The law in England, Wales and Scotland Lotteries include raffles, tombola, sweepstakes and some other activities.

In the law of England, Wales and Scotland, a lottery is a type of gambling which has three essential characteristics.

- You must pay to enter the game.
- There is always at least one prize.
- Prizes are awarded purely by chance.

Part 3: Standards which apply to specific fundraising methods

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The Gambling Act 2005 created six categories of lotteries.

1. Private lotteries, including:

- private-society lotteries;
- work lotteries; and
- residents' lotteries.

2. Lotteries held at events (known as 'incidental lotteries').

3. Customer lotteries. (Please note that, as customer lotteries cannot make a profit, they are not suitable for fundraising.)

4. Small-society lotteries.

5. Large-society lotteries.

6. Local-authority lotteries. (These are run by local authorities and so are outside the scope of the code.)

Each type of lottery has its own standards and you can find an overview of these in the Gambling Commission Guidance.

For more information contact the Volunteering Team on 01604 611681 or email volunteering@mndassociation.org

Last updated – December 2020

Registered Charity No. 294354

A lottery run by or for the benefit of a charitable institution will fall under the definition of a society lottery. However, that does not prevent you or those fundraising on your behalf from running lotteries under another appropriate category. Lotteries which fall within categories 1 and 2 do not need a licence or permission from any authority if the charitable institution meets the rules that apply. Tombola, lotteries and raffles held at events which fall within category 2 are a common type of fundraising. These do not need a licence or permission from any authority (although you should get permission from the event organiser or site owner). For more information see the Gambling Commission's guidance on organising small lotteries.

For lotteries which fall within categories 4 and 5, the society must have the relevant permission from either a local authority (in the case of small-society lotteries) or the Gambling Commission (in the case of large-society lotteries) before marketing or selling tickets. You can visit the Gambling Commission's website for more information on small-society lotteries that don't need a licence and society lotteries which need a licence or registration.

12.4. In the draw in this section, 'you' means a charitable institution or third-party fundraiser running a lottery for the benefit of a charitable institution, unless we tell you otherwise. For lotteries, 'society' means the charitable institution.

12.4.1 The draw must be witnessed and you should make a record of the result.

12.4.2 You must include all paid-for, valid ticket entries in the draw.

12.4.3 If you are going to transfer late entries to the next draw, you must be clear about this when you sell the ticket.

12.4.4 If, for any reason, the draw date needs to be delayed from that shown on the ticket, you must take all reasonable steps to make sure that everyone who has bought a ticket knows about the change, and you must discuss it with the issuer of the licence.

12.6.1 To be a prize competition you **must** make sure that anyone taking part has a level of knowledge or judgement or displays an element of skill that will prevent a significant proportion of people from entering or from winning a prize.

12.6.2 To be a free draw the arrangement **must** either be completely 'free' to enter, as defined in the Gambling Act, or have a free method of entry, which **must** also be as accessible as and no less convenient than paying to enter. Anyone taking part using the free method **must** have the same chance of winning as they would if they paid to enter.

Legacies

Obviously legacies are very sensitive issues and anyone involved from branches and groups must always respect the persons wishes who is considering leaving a legacy gift as outlined below and should make and keep notes of any meetings or communications to avoid any misunderstandings in the future. Do get in touch with National Office if you have concerns around the receiving or administration of legacies.

15.1.1 You must make sure that all fundraising activity relating to legacies considers:

- the freedom of the person leaving the legacy (the testator) to provide for their family and others; and
- any sensitive circumstances of the potential testator and their family and friends.

15.1.2 You must make sure fundraisers do not provide legal advice. Whenever legacy fundraising is done by an external third party who is a professional fundraiser, this fundraising **must** meet the legal obligations that professional fundraisers have.

15.3.4 In all visits to people who might consider leaving a legacy to you in their will, you must make sure that your fundraiser:

- accepts the person's right to invite other people of their choice to be present at any stage of the meetings;
- reminds the person of the purpose of the visit;
- makes sure that the meeting is carried out in a way and at a length that is sensitive to and suits their interests and concerns;
- accepts the person's right to end the meeting at any time, and does this promptly and politely; and
- makes and keeps attendance notes of meetings and communications with the person on file.