

Cardiff Third Sector Council

Your local county voluntary council



7. Finding and getting money

7.6.3 Fundraising donations

What is a donation?

Before looking at this subject in detail we must clearly define what falls within the scope of charitable donations and who or what can make them. Donations are defined as voluntary gifts to a fund or cause, usually for charitable reasons. They can include money, possessions and ideas.

Who can donate?

Donations can be made by wealthy individual benefactors, private companies or street collections. Large donations, typically over £1,000 will require more stringent control although it is a matter for each individual charity to decide the level of control they feel is appropriate.

Donations – acceptance or refusal

Irrespective of any internal delegation procedures within the charity, the ultimate responsibility in respect of the acceptance or refusal of all donations rests with the trustees. There is no specific statute to guide trustees however there are relevant legal principles that should be met when deciding whether or not to accept donations. That said, the law does require trustees to consider the best interest of the charity when determining whether to accept or refuse a donation.

Both the Charity Commission and Institute of Fundraising, through their Codes of Practice, provide further guidance on this issue.

Traditionally donations have been the backbone of a charity's income. Donations are made for either general charitable work being undertaken or for specific appeals. It is extremely important to remember that donations made and funds raised for a specific appeal must be used for that specific purpose. Recommended accounting good practice requires that a charity's annual accounts show the income and expenditure relating to specific appeals.

General donations are welcomed by charities because they are, within reason, unrestricted in the manner in which they use such monies. Although appeals or campaigns on a specific aspect of a charity's work is a good way to encourage donations. Increasingly charities are organising seasonal or emergency appeals which may involve street or door-to-door collections or direct mail campaigns.

In general, the following are the more usual way of raising donations:

Collections in public places

Raising money or selling goods for charity in the street or public places usually requires a permit or licence from the local authority. In addition there are also statutory provisions regarding the obstruction and or hindrance caused to traffic by flag days, carnivals, rag weeks, etc and the places where, and the conditions under which, persons may collect money or sell articles for charitable and other purposes. The relevant authority should be consulted before any attempt is made to raise funds in this area.

Door to Door collections

These collections must have a licence or an exemption. Licences are granted by the appropriate local authority. Exemptions may be granted by:

- The Home Secretary – for collections over a wide area (e.g. the whole of Wales or a substantive part of it)
- The police – for a local collection to be completed within a short period.

The term collection includes visits from house to house and also visits to public houses, offices and factories to appeal for money, other property (e.g. clothes), or to sell things on the basis that part of the proceeds will go to charity.

The Charities Act 1992 (Part III) makes provision for new regulations to be made governing public charitable collections to replace the separate existing legislation on public and door to door collections.

The Charities Act 2006

Subsequent to previous legislation, the Charities Act 2006 provides for a new system for licensing charitable collections in public. It applies to all such collections, including face-to-face fundraising, involving requests for direct debits.

There is a new role for the Charity Commission in checking whether charities and other organisations are fit and proper to carry out public collections and they will be responsible for issuing public collections certificates, valid for five years. However it is likely to be several years before this legislative framework is fully functioning.

Collections in public places

Legal definitions have been revised so that collections in public places will now include some privately owned land such as supermarket forecourts and railway station ticket halls. Once a charity has a public collections certificate it will be able to apply to a local authority for a permit to hold collections at certain times in certain places in that local authority area. Local authorities will ensure that there are not too many collections taking place at the same time in the same place.

Door-to-door collections

A charity with a public collections certificate will be able to conduct door to door collections without permission from a local authority, but it must inform the local authority that the collection is taking place.

Local, short-term collections

Some collections will be exempt from licensing and will not require either a certificate or permit, but organisers will have to notify the local authority that the collection is taking place; so small scale activities like carol singing should not be disproportionately affected.

Regulation of cash collections

When collecting, try to have a system for tracking the number of collection receptacles (tins, buckets) that are being used and who is responsible for using and emptying each and every one. Ideally they should be numbered, sealed units that are opened by two or more people. People should then count them and record the monies collected. All monies should be regularly banked – at least weekly.

If a donation is from a group or company who can be identified then a thank you letter should be sent. This both secures the relationship between donor and recipient and also acknowledges safe receipt of the monies.

Donations should always be kept in a secure place on the charity's premises rather than those of an individual. If necessary the charity may consider purchasing a safe in which to keep donated monies prior to banking. There should be a limited list of named staff with access to donated monies and the safe. Finally for large regular deposit of cash, charities may wish to consider a secure carrier to deposit the funds.

The Public Fundraising Regulatory Authority is the new self-regulatory body which has been set up specifically for 'face to face' fundraising. It covers public charitable collections conducted both door to door and in public places and extends to direct debit solicitation.

Public appeals

A public appeal is a concentrated effort to persuade individuals and organisations to give money to a particular good cause. They work by attracting publicity and raising awareness of the need you are trying to meet.

Appeals are usually for specific things - a new church roof, a particular piece of equipment or supporting a local hospice. General non-specific appeals to swell the coffers of small organisations are less effective unless you are exceptionally well known.

Whether large or small, the key to a successful appeal is sound planning. Leave nothing to chance. Do not start an appeal and then hope for the best. Appeals may

involve you with the media, celebrities or Her Majesty's Revenue and Customs (HMRC). This can require skills and methods which are different from the type of work you have done before, and activities which you do not feel comfortable with. You will need to follow a fundraising plan and be able to justify the need for your appeal. Before you decide to launch an appeal you should ask yourselves:

- Does the need justify a public appeal, and is it within your charitable objects?
- Is there a commitment and agreement among staff and volunteers that an appeal is the right course of action?
- Have you got the necessary skills within your organisation or do you need to get more specialised help?
- Have you got separate accounting procedures to set up and receive appeal money?
- Have you worked out the cost of holding the appeal and set aside enough money to cover costs?
- Have you enough time to carry out the appeal?
- Is there someone with the prestige or public profile who is willing to help and if so at what cost?

You need to be extremely cautious that you plan your appeal to avoid a host of pitfalls. In particular you must word appeals carefully:

- An appeal for an individual cannot be considered charitable, cannot be registered as a charity and is subject to tax.
- Payment to an individual as a result of an appeal may result in them losing state benefits.
- Accounting procedures for appeals must be clear and separate from the rest of your accounts, particularly if you use gift aid.
- Money raised by public appeal cannot be used for any other purpose than that stated in the original appeal.
- There are very specific procedures you must follow if you have unspent appeal money, unless you state at the start how you will use it.

Lotteries and raffles

A lottery is defined as *'the distribution of prizes by chance where the persons taking part, or a substantial number of them, make a payment in return for obtaining their chance of a prize'* (House of Lords criteria).

Lotteries are an extremely popular and potentially effective way of raising money. But the regulations are complicated enough to require careful study. The term 'lottery' covers items such as lottery tickets, raffle tickets and scratch cards.

Regulations for different types of lottery

Different regulations apply depending broadly on their scale and where the tickets are sold.

The distinctions which voluntary organisations need to be aware of are as follows:

- Small lotteries (i.e. raffles) do not need to be registered, provided:
 - tickets are sold on the premises during, and as an incidental part of, a charitable event (such as a bazaar, fete, dinner or dance).
 - expenditure on prizes is no more than £250 (but there is no limit on the value of donated items).
 - no cash prizes are awarded.
- Private lotteries have no limits on the type or value of prizes, and they do not need to be registered, but a number of restrictions apply, including the premises on which they are sold.
- Society (public) lotteries - tickets can be sold in public places, but the lottery must be registered with the Gaming Board or your local county council, and a number of restrictions apply.

The first thing to check is whether your organisation's constitution or 'governing instrument' allows you to take part in gambling. Some charities expressly forbid it, so bingo and lotteries could be out of the question.

Lotteries rank alongside public collections for the number of public complaints they provoke. Make sure you are in the clear:

- If the organisation is a registered charity the lottery ticket must say so under charity law (it is acceptable to overstamp them with the charity's name and number using a rubber stamp).
- It is illegal for anyone under the age of 16 to sell lottery tickets.
- If you sell lottery tickets in the street you must do so from a kiosk or booth.
- If alcohol forms part of the prize you must obtain appropriate licence.
- Always check with the Gaming Board before undertaking a raffle to help an individual – fundraising for individuals is not charitable, and could have tax and benefit implications.

Fundraising professionals

Where trustees decide to raise funds by employing a professional fund-raiser or by entering into a promotion with a commercial participator they need to be aware of the provisions of The Charities Act 1992 (Part II) and The Charitable Institutions (Fund-Raising) Regulations 1994 (SI 1994/3024).

The terms professional fund-raiser and commercial participator are defined by section 58(1) of the Charities Act 1992. An explanation is given in paragraph 3 of this guidance.

The following elements should be considered when contracting to use the services of a professional fundraiser and or commercial participator.

- Is the fund-raiser reputable and are they a member of the Institute of Fundraising Cymru?
- Is there a period of notice specified to enable you to terminate the contract - one and three months should be ample.?
- Ensure the methods the fund-raiser intends to use are not likely to be distasteful to the public or to the organisation's supporters.
- Are your trademarks, and other intellectual property rights safeguarded by the agreement?
- Are any collecting boxes obtained by a fund-raiser the organisation's property? What control do you have over siting, emptying and what becomes of the boxes after the agreement ends?
- Do you need to safeguard any confidential information about your organisation the fundraiser may have acquired?
- Should a fixed charge be set in the agreement for the fund-raiser's remuneration or should it be calculated partly or wholly as a percentage of funds raised?

There are separate information sheets covering fundraising events and legacies. There is also an information sheet that covers tax effective giving.

Further guidance on statutory and regulatory matters regarding fundraising can be obtained from the following organisations:

Public Fundraising Regulatory Authority

Unit 11, Europoint, 5-11 Lavington Street, London, SE1 0NZ

Tel: 020 7401 8452

Fax: 020 7928 2925

info@pfra.org.uk

www.pfra.org.uk

The Charity Commission

PO Box 1227, Liverpool L69 3UG

Tel: 0845 300 0218

www.charity-commission.gov.uk

Institute of Fundraising

See: 'Codes of Fundraising Practice'
Park Place, 12 Lawn Lane, London, SW8 1UD
www.institute-of-fundraising.org.uk
Tel: 020 7840 1000

Institute of Fundraising Cymru

14-16 Merthyr Rd, Whitchurch, Cardiff, CF14 1DG
Tel: 029 2052 1272
Fax: 029 2052 1250
cymru@institute-of-fundraising.org.uk

HM Revenue & Customs - Charities

See: 'Trading and business activities' (Tax issues)
St Johns House, Merton Road , Merseyside, L69 9BB
Tel: 08453 02 02 03
www.hmrc.gov.uk/charities

Disclaimer

The information provided in this sheet is intended for guidance only. It is not a substitute for professional advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.

For further information contact

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