

1. Behaviour when fundraising

In this section, ‘you’ means a charitable institution or third-party fundraiser.

1.1. General behaviour

1.1.1.

Your fundraising **must** be legal and must be open, honest and respectful.

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. Asking for support

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.

1.3.3.

You must not take advantage of mistakes made by a donor.

1.3.4.

When talking about finances and financial benefits, you must tell donors that you are not in a position to offer formal financial advice.

1.3.5.

Your fundraising **must** meet equality law as it applies in England, Wales, Scotland and Northern Ireland. You **must not** discriminate against people with characteristics protected under the law of these countries. You can get more information from the [Equality and Human Rights Commission](#) and the [Equality Commission for Northern Ireland](#).

1.3.6.

You must take all reasonable steps to treat a donor fairly, so that they can make an informed decision about any donation.

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 them.

1.3.11.

You must take all reasonable steps to avoid asking for regular donations (for example, by direct debit) from anyone aged under 18. Young people aged between 16 and 18 can take part in charity lotteries, but if you receive money for a lottery from a child or young person aged under 16 you **must** return the money.

2. Responsibilities of charitable institutions and those who govern them

Charitable institutions and those who govern them have a responsibility to act in the best interests of their organisation. They are responsible for fundraising.

This section sets out the standards we expect, including those related to risk assessments, effective complaints-handling procedures and making sure charitable institutions use donations for the purposes for which they are given.

Charities

The overriding duty of all charity trustees is to act in the best interests of their charity at all times. In doing this, trustees have several basic responsibilities related to fundraising.

England and Wales

If you are a charity established in England and Wales, you can find guidance in the Charity Governance Code and in the Charity Commission for England and Wales's guidance Charity fundraising: a guide to trustee duties (CC20) and The essential trustee: what you need to know, what you need to do (CC3).

Scotland

If you are a charity registered in Scotland, the Scottish Charity Regulator's (OSCR's) Fundraising guidance for Charity Trustees provides information on the legal requirements of Scottish charity law in relation to fundraising and the duties of charity trustees. You can find more information in OSCR's Guidance and Good Practice for Charity Trustees and the Scottish Governance Code.

Northern Ireland

If you are a charity registered in Northern Ireland, the Charity Commission for Northern Ireland's (CCNI's) guidance Fundraising for Charities, its bitesize guidance Fundraising at a Glance – a guide for charity trustees and Fundraising at a Glance – a guide for members of the public provide information on the legal requirements and good practice in relation to fundraising and the duties of charity trustees. You can find more information in

CCNI's Running your Charity guidance which sets out the principles and main elements of good governance for the trustees of charities in Northern Ireland.

Organisations established for philanthropic and benevolent purposes

The governing bodies of non-charitable voluntary organisations will have similar duties to those set out above in relation to charities.

For more standards on fundraising that involves children (in particular, age limits and data protection), see **section 6 Fundraising involving children**.

Further guidance

- Chartered Institute of Fundraising: Treating Donors Fairly for guidance on people in vulnerable circumstances

2.1. General duties

In this section, 'you' means the members of the governing body of a charitable institution.

2.1.1.

You **must** take overall responsibility for the fundraising activities of your charitable institution, including if you have delegated responsibility for certain roles to another person.

2.1.2.

You must consider national guidance when overseeing the fundraising activities of your charitable institution and anyone else fundraising on its behalf.

2.1.3.

You **must** act in the best interests of your charitable institution.

2.1.4.

You **must** be aware of possible conflicts between the duties you owe to your charitable institution and the duties or loyalties you have to others. You must follow your charitable institution's conflict procedures and disregard any other interests you have when making decisions relating to the organisation.

2.1.5.

You **must** make sure that your charitable institution's assets and resources are used only for the purposes for which they were given (which may be all or just some of the institution's purposes). If the charitable institution is a charity, you **must** make sure it is run in line with its governing document, charity law and all other laws and regulations that apply.

2.1.6.

You must act reasonably and carefully in all matters relating to fundraising. If you are not experts in fundraising, you must take appropriate advice.

2.1.7.

You must make it clear to all people fundraising on your behalf that they **must** make sure that your charitable institution receives all the money they have raised.

2.1.8.

You must consider the effect of controversial fundraising campaigns on the charitable institution's reputation.

For more standards on accepting, refusing and returning donations, see **section 2.3 Accepting, refusing and returning donations**.

Further considerations specifically for charity trustees in Scotland

2.1.9.

You must meet the Charities and Trustee Investment (Scotland) Act 2005 and any regulations made under it or which affect charities. In particular:

- you **must** follow the charity's governing document and the charity trustee duties under section 66 of the 2005 Act; and
- you **must** act in the interests of your charity, make sure you act in a way which is consistent with your purposes, and act with the 'care and diligence' that it is reasonable to expect of a person who is managing the affairs of another person.

Further considerations specifically for charity trustees in Northern Ireland

The duties and responsibilities trustees have with regard to fundraising all fall under the general duties of charity trustees to be responsible and accountable for their charity and to act at all times in the best interests of the charity, with an overall duty to control and protect the charity, its beneficiaries, assets and reputation.

2.2.Risk assessment

In this section, ‘you’ means the members of the governing body of a charitable institution.

2.2.1.

You must take reasonable steps to assess and manage any risks fundraising poses to your charitable institution’s activities, beneficiaries, property, work and reputation.

2.2.2.

You **must** meet the Proceeds of Crime Act 2002, which applies to money or other property that has been gained through criminal behaviour, even if the behaviour is legal in another country.

2.2.3.

You must **meet** any legal obligations to protect the health and safety of employees, volunteers, the public and anyone else who might reasonably be considered to be affected by your charitable institution’s fundraising activities. For more information, see the websites of the Health and Safety Executive and Health and Safety Executive Northern Ireland.

2.3.Accepting, refusing and returning donations

In this section, ‘you’ means the governing body of a charitable institution. You must make those fundraising on your behalf aware that decisions relating to refusing or returning a donation must be made by you or in line with a policy you have set.

2.3.1.

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

2.3.2.

If you decide to refuse a donation, you must keep a record of your decision and the reasons for it.

2.3.3.

You must carry out due diligence, appropriate for the size and nature of the donation, on both the financial and reputational dealings of possible partners before accepting their donations.

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.

Further guidance

- Chartered Institute of Fundraising: **Acceptance, refusal and return: A practical guide to dealing with donations**
- Charity Commission for England and Wales: **Returning money to charities** – for guidance on returning money received from a charity

2.4. Complaints and concerns about fundraising

In this section, 'you' means a charitable institution and the members of its governing body.

2.4.1.

You must have a clear and publicly available complaints procedure which must also apply to third-party fundraisers.

2.4.2.

You must make sure fundraisers can explain to members of the public how to make a complaint.

2.4.3.

You must make sure that:

- complaints are investigated thoroughly and fairly to find out the facts of the case, avoiding unnecessary delay; and
- you respond to complaints fairly and in a way that is in proportion to the complaint.

2.4.4.

You must regularly review any lessons to be learnt from complaints and use that learning to help you with future fundraising activity.

2.4.5.

You must have a clear and published procedure for members of staff and volunteers to report any concerns they have about your fundraising practice. This could be either a stand-alone policy or part of a wider whistleblowing policy which is available to staff and volunteers. You must make sure the policy includes:

- the type of issues that can be raised and the process for doing so;
- how the person raising a concern will be protected from victimisation and harassment;
- what you will do when you receive a concern; and
- how a person can report their concerns to us (the Fundraising Regulator) or the Scottish Fundraising Adjudication Panel if it is not possible for it to be considered or resolved within your charitable institution.

Further guidance

- Fundraising Regulator: [Complaints handling guidance](#)

2.5. Paying fundraisers

In this section, unless we say otherwise, ‘you’ means a charitable institution and the members of its governing body.

2.5.1.

You **must** use all funds reasonably and sensibly in the interests of your charitable institution. This involves making sure that what you pay your fundraisers is proportionate to the benefit you reasonably expect to gain from their work.

2.5.2.

You must not pay fundraisers excessive amounts. Where appropriate, you must put a cap on how much you pay fundraisers or use a reducing sliding scale to avoid excessive pay.

2.5.3.

You must have effective systems in place for managing performance and recognising the effect the payment method can have on the fundraiser, you, the beneficiaries and the public.

2.5.4.

You must not use commission payments unless:

- you have explored and exhausted all other sources of fundraising investment;
- you (or senior executives, if you have delegated power to them) approve any payments; and
- there are measures in place to make sure excessive payments are not allowed.

2.5.5.

You must monitor commission payments to make sure that they continue to strike a balance between reducing risk and encouraging fundraisers effectively.

2.5.6.

If you directly employ people to fundraise, you **must** make sure that the method of payment you choose meets the Employment Rights Act 1996 (in Northern Ireland The Employment Rights (Northern Ireland) Order 1996), and you **must** meet the minimum wage rules set out in the National Minimum Wage Act 1998.

2.5.7.

You **must** make sure that professional fundraisers, commercial participators and, where this applies, your own staff give solicitation statements when they ask for donations on behalf of your charitable institution.

For more standards on solicitation statements, see **section 2.6 Solicitation statements for paid employees, officers and trustees of charitable institutions and connected companies** and **section 7.4 Solicitation (disclosure) statements for paid third-party fundraisers and commercial participators**.

2.5.8.

If you are a charity trustee, you **must not** be paid for fundraising for your charity unless you meet specific conditions which depend on the country you are based in.

Further guidance

- Charity Commission for England and Wales: Payments to charity trustees: what the rules are and section 185 of the Charities Act 2011
- Scottish Charity Regulator (OSCR): Guidance and good practice for charity trustees and section 67 of the Charities and Trustee Investment (Scotland) Act 2005
- Charity Commission for Northern Ireland: Guidance on trustee expenses and payment and section 88 of the Charities Act (Northern Ireland) 2008

2.6.Solicitation statements for paid employees, officers and trustees of charitable institutions and connected companies

In this section 'you' means the paid employees, officers and members of the governing body of a charitable institution or connected company.

England and Wales

2.6.1.

If you are carrying out a public charitable collection, and are paid more than £10 per day or more than £1000 per year to collect donations for the benefit of one or more charitable institutions and are not a professional fundraiser, you **must** make a statement saying:

- the name of the charitable institution or institutions which will benefit and, if there is more than one, the proportions in which they will benefit;
- that you are an officer, employee or member of a governing body of a charitable institution; and
- that you are receiving payment as an officer, employee or member of a governing body, or for acting as a collector. You do not have to say how much you receive.

2.6.2.

You must make the statement either before the donor gives any money or before you ask for any financial details relating to the donation (whichever is sooner).

2.6.3.

If you ask for a donation for general charitable, benevolent or philanthropic purposes (not for a specific named charitable institution), you **must** make a similar statement that you are being paid for those general purposes.

Northern Ireland

2.6.4.

You must follow the same standards as in England and Wales.

Scotland

For more standards on solicitation statements in Scotland, see **section 7.4 Solicitation (disclosure) statements for paid third-party fundraisers and commercial participators.**

2.7.Using funds

In this section, ‘you’ means the members of the governing body of a charitable institution.

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. This 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.

2.7.5.

If you are fundraising for a particular purpose, you must include a statement saying what will happen to funds you receive if the total amount raised is not enough to reach (or is more than) the target. For more standards on accepting, refusing and returning donations, see **section 2.3 Accepting, refusing and returning donations**.

2.7.6.

You **must not** ask for funds for a purpose that does not fit within the purposes of your charitable institution.

2.7.7.

If you encourage someone to donate by offering benefits, you must make sure:

- you have the power to give the benefits;
- the benefits are appropriate in the circumstances; and
- the benefits are proportionate to the size and frequency of the donation.

2.7.8.

You must be aware when benefits cancel out possible tax relief such as Gift Aid or top-up payments available under the small-donation rules. If benefits do prevent the donation qualifying under Gift Aid or the Gift Aid Small Donations Scheme rules, you **must not** try to reclaim tax on the donation. The tainted-donations rules may apply to some benefits.

Further guidance

- HM Revenue & Customs: **Chapter 3.18 Charities: detailed guidance notes on how the tax system operates** – for guidance on the limits on benefits that can be offered without tax consequences
- Charity Commission for England and Wales: **Charities: due diligence, monitoring and verifying the end use of charitable funds**
- Scottish Charity Regulator (OSCR): **Restricted funds organisation** – for guidance on changing the purpose of a donation

- Charity Commission for Northern Ireland: **Requesting a scheme** – for guidance on changing the purpose of a donation

2.8.Accounting and reporting

In this section, ‘you’ means a charitable institution and its governing body.

2.8.1.

You **must** follow all legal accounting requirements.

2.8.2.

If you are a charity that the Charity Statement of Recommended Practice (SORP) applies to, you must follow it in your accounting and reporting.

2.8.3.

You must meet any specified reporting requirements if they apply to a donation.

Further considerations England and Wales

2.8.4.

If you are a charity and you have to have your accounts audited under section 162A of the Charities Act 2011, under section 13 of the Charities (Protection and Social Investment) Act 2016 you **must** state in your trustee annual report:

- your approach to fundraising, and whether you used a professional fundraiser or commercial participator;
- details of any voluntary regulatory fundraising schemes or standards which you or anyone fundraising on your behalf has agreed to;
- details of any circumstances where you have failed to keep to a scheme or standard;
- whether, and if so how, you monitored fundraising activities carried out on your behalf;
- how many complaints you or anyone acting on your behalf has received about fundraising for your charity; and
- what you have done to protect vulnerable people and others from unreasonable intrusion on their privacy, unreasonably

persistent approaches or undue pressure to give, in the course of or in connection with fundraising for your charity.

Further guidance

- Charity Commission for England and Wales: **Charity reporting and accounting: the essentials November 2016 (CC15d)**
- Scottish Charity Regulator (OSCR): **Charity accounting**
- Charity Commission for Northern Ireland: **Charity reporting and accounting: the essentials**
- Fundraising Regulator: **The Charities (Protection and Social Investment) Act 2016: Fundraising reporting requirements guidance**

3. Processing personal data (information)

Protecting personal data makes sure people can trust you to use their data legally, fairly and responsibly. This section sets out the standards we expect when you process personal data, including standards related to direct marketing.

The rights people have over their data

The General Data Protection Regulation (GDPR) gives people the following rights in law regarding their personal data.

- The right to be informed
- The right of access
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- Rights in relation to automated decision making and profiling

Special category data

Certain types of data need stronger protection. This includes, for example, information relating to their:

- race;
- ethnic background;
- political opinions;
- religion;
- trade-union membership;
- genetics;
- biometrics (computerised details used to identify a person through their unique characteristics, for example through fingerprint scanning and facial recognition);
- health;
- sex life; or
- sexual orientation (sexuality).

Guidance on conditions for processing special category data is available from the ICO.

3.1. General requirements for personal data

In this section, 'you' means a charitable institution or third-party fundraiser who processes personal data.

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.

3.1.2.

You must keep up to date with guidance from the ICO. This includes the ICO's direct marketing guidance, its GDPR consent guidance and legitimate interests guidance.

3.1.3.

If you process personal data, you **must** pay the data protection fee to the ICO, unless you are exempt.

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);
- give people concise, open, understandable and easily accessible information about how you will process their personal data, including who your organisation is, what you are going to do with their personal data and who (if anyone) you will share it with;
- only process personal data in ways that the person whose data it is would reasonably expect; and
- **not** do anything unlawful with personal data.

3.1.5.

You **must** meet any duties you have to keep data confidential. You **must not** share data if you have a legal duty to keep the data confidential, unless there is an overriding legal reason to do so. For example, if a court ordered you to release the data.

Further guidance

- Information Commissioner's Office: **Guide to Privacy and Electronic Communications Regulations**
- Information Commissioner's Office: **Right to be informed** – for guidance on privacy information and notices
- Information Commissioner's Office: **Data Protection fee** – for information on how to register with the ICO

3.2. Storing and maintaining personal data

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

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.

3.2.3.

You must be able to show that you have taken all reasonable steps to make sure that:

- databases are accurate and, where necessary, up to date;
- you don't send direct marketing to people who have told you they don't want to receive it; and
- you stop sending communications addressed to people you know have died.

3.2.4.

You must have appropriate systems or procedures in place (such as a list of people not to contact) to make sure that you do not send direct marketing to people who have asked not to receive it.

3.2.5.

You **must** either stop sending direct marketing to a person within a reasonable period (as soon as possible, but in any case within 28 days) or not begin to process a person's personal data for the purpose of sending them direct marketing if you receive notice from, or on behalf of, that person telling you that they don't want to receive direct marketing. For example:

- a notice from (or sent on behalf of) a person through the Fundraising Preference Service telling you that a request to stop contact has been made; or
- any other clear indication from a person (or made on their behalf) that they do not want you to contact them for direct marketing purposes. This indication may include giving you their contact preferences or unsubscribing from mailing lists.

Further guidance

- Information Commissioner's Office: **Right to object** – for guidance on people's right to object to you processing their personal data
- Information Commissioner's Office: **Principle (b): Purpose limitation** – for guidance on keeping to the limits on the purposes you are allowed to process personal data for

3.3. Sharing and selling personal data

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

3.3.1.

You **must not** share personal data with any other organisation unless you have a lawful basis to share it and can prove that you meet the processing requirements in section 3.1 above.

3.3.2.

If personal data is shared between organisations:

- within a federated structure (in other words, where one organisation controls the other or where both are controlled by the same parent organisation); or
- under a data-processing arrangement (where one organisation acts on behalf of another organisation under a written contract, such as professional fundraisers, data-management companies or printing houses);

the organisational structure or arrangement and the reason for processing the data **must** be clear in the privacy information you give to the person in order to meet their right to be informed. Or, if the organisation receiving the data needs the person's consent (permission) to hold and use their data, the organisation or category of organisation receiving the information **must** be named in the request for consent, and the organisation sending the request for consent **must** receive the person's specific consent for their data to be shared.

3.3.3.

You **must not** share a person's personal data with any other organisation for that organisation's marketing purposes unless you are allowed to do so by law, either because you have the person's consent to do so or through the exceptions in **3.3.2**.

3.3.4.

You must not sell a person's personal data to any other organisation, unless you can show that you have that person's freely given, specific, informed and unambiguous consent to sell their data.

3.4. Case studies

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

3.4.1.

If you plan to use a real-life example of a person in a case study, you **must** only process that person's personal data in line with the law.

For more standards on processing data in line with the law, see **section 3 Processing personal data (information)**.

3.4.2.

If you want to use a case study which identifies a person who has died, you must make all reasonable efforts to get permission from that person's estate.

3.5. Direct marketing

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

Direct marketing is defined in law as 'The communication (by whatever means)...of any advertising or marketing material...which is directed to particular individuals...'

The ICO states that fundraising activity, as well as charities' promotional and campaigning work, is covered by the definition of direct marketing.

In practice, fundraising messages which are sent electronically (for example, phone calls, faxes, texts and emails) or by addressed mail are likely to be directed to a specific person, and so are covered by this definition.

The marketing must be directed to particular people. Some marketing is not directed to specific people (for example, unaddressed mail) and so is not covered by this definition.

Alongside data protection legislation that applies when processing personal data for direct marketing purposes, the Privacy and Electronic Communications Regulations (PECR) will apply when sending marketing electronically, such as by email or text message and in recorded phone calls. In these cases, you will always need the person's consent to send them direct marketing, unless:

- you meet the 'soft opt-in' condition which allows businesses who have received a person's contact details when selling a product or service to them (or during negotiations relating to a possible sale) to market similar products and services to that person; or
- you are marketing to businesses or organisations (including where you contact an individual using a corporate email address such as `firstname.surname@companyname.com`).

3.5.1.

You **must** have a lawful basis for processing personal data in order to send direct marketing communications to people.

The standards on 'consent' and 'legitimate interest', the two most common lawful bases for processing personal data in order to send direct marketing communications, are set out below.

Further guidance

- Information Commissioner's Office: **Direct Marketing Guidance**
- Information Commissioner's Office: **Electronic mail marketing** – for guidance on when the PECR do not apply
- Information Commissioner's Office: **Lawfulness for processing** – for guidance on processing personal data in line with the law

Consent for direct marketing communications

3.5.2.

If you use, or plan to use, consent as a lawful basis for processing personal data in order to send direct marketing communications, the consent **must**:

- be a freely given, specific, informed and unambiguous indication of the person's wishes;
- be given through a clear positive action from the person concerned to show they have given consent (for example, using active methods, such as ticking an unticked opt-in box or answering 'yes' to a question);
- give options for different levels of consent for different types of processing if you plan to process the person's data for more than one purpose;
- be separate from your other terms and conditions and not be something the person has to give when signing up to a service (unless you need the consent to be able to provide that service);
- name your organisation and any others who will be relying on the consent;
- tell people about their right to withdraw their consent and make it as easy for them to withdraw consent as it is to give it; and
- be recorded in a way that allows your organisation to show who gave consent, when they gave consent, how they gave consent, and what they were told in connection with giving consent.

3.5.3.

Electronic requests for consent **must** be clear and concise and must not unnecessarily disrupt the use of the service the consent is for. For

example, you can achieve this by breaking a longer privacy notice into shorter pieces of privacy information which pop up only at the point where a person is asked for their personal data.

3.5.4.

If you have a person's consent to send them direct marketing communications, you:

- must offer them an easy way to withdraw their consent (such as an 'unsubscribe' button in any communications you send);
- must, as often as your organisation reasonably decides, remind the person of their contact preferences and offer them an easy way to change these if they want to (such as an 'update your communication preferences' button); and
- **must** update the person's record as necessary to reflect changes to their consent or contact preferences.

3.5.5.

You must make sure that all consent statements (wording to gain consent for marketing purposes) displayed in your fundraising materials are at least the same font size as:

- any text which asks for personal data; or
- any text which states the donation amount; whichever is bigger.

3.5.6.

If there is no text asking for personal details or stating the donation amount, your consent statements must be in a font size of at least 10.

Legitimate interest as a basis for direct marketing communications

3.5.7.

If you are using legitimate interest as the basis for processing data for the purpose of direct marketing by live phone call or by post, you **must** be able to show that you:

- have identified a legitimate interest (under ICO guidance, this may be your organisation's own interest or the interest of third

parties and may include commercial interests, individual interests and broader benefits to society);

- need to process the data to achieve that interest (under ICO guidance, if the same result can reasonably be achieved in another, less intrusive way, legitimate interests will not apply); and
- have balanced your interest in processing the personal data against the interests, rights and freedoms of the person to make sure that your interests are not overridden by theirs (under ICO guidance, if the person would not reasonably expect you to process their data or it would cause them unjustified harm, their interests are likely to override yours).

3.5.8.

If you are relying on the legitimate interest condition as the lawful basis to process data, you must have a record of your decision-making to help show that you meet the conditions set out above.

3.5.9.

If you are relying on the legitimate interest condition as the lawful basis to process data for the purpose of direct marketing by phone or post, your privacy notice:

- **must** explain what you will use the personal data for;
- **must** explain your legitimate interests; and
- must offer, in the privacy notice and in any other direct marketing communication you send, a clear and simple way for the person to tell you that they do not want to receive direct marketing in future.

Further guidance

- Information Commissioner's Office: **Right to be informed** – for guidance on privacy notices
- Information Commissioner's Office: **Legitimate interests** – for guidance on using this as a lawful basis to process data
- Information Commissioner's Office: **Consent** – for guidance on using this as a lawful basis to process data

3.6. Requests from people to access their personal data

In this section, ‘you’ means a charitable institution or third-party fundraiser.

3.6.1.

If you process a person’s personal data, you **must**, if that person asks you to, give them a copy of the personal data you hold about them and details of how you use it in line with the person’s right of access (exemptions may apply to this).

3.6.2.

If you hold or use a person’s personal data to fulfil a contract or because you have their consent to process it, you **must** make sure that the personal data can be easily moved, copied or transmitted from one computer system to another if the person asks you to do this (whether this is to their own systems, or to the systems of another organisation or new data controllers).

Further guidance

- Information Commissioner’s Office: **Right to data portability** – for guidance on a person’s right to transfer data for their own purposes
- Information Commissioner’s Office: **Right of access** – for guidance on a person’s right to access their personal data held by an organisation

4.Processing donations

Clear policies and processes for dealing with donations and Gift Aid reduce risk and make sure that charities get all of the money they are entitled to. This section includes standards about handling different forms of payment to make sure donations are secure (this includes one-off payments and ongoing donation commitments). It also includes rules on Gift Aid.

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.

Further standards for cash collections in Scotland

4.1.13.

In Scotland, for collections licensed by the local council which will be carried out using a collecting box, you **must** only accept donations by allowing the donor to put them in the collecting box. Or, if the collection can be carried out by sealed envelopes, the collector **must** only accept donations in sealed envelopes using the numbered envelopes you have issued to them. As a result, it is not usually possible to give receipts for donations.

4.1.14.

If you receive cash in collection envelopes or collecting boxes as part of a public charitable collection, you **must** count and bank it in line with the Public Charitable Collections (Scotland) Regulations 1984, as amended.

4.2. Tills

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

4.2.1.

You must make sure that all money is put into the till immediately.

4.2.2.

You must only give change from the till, never from your personal money.

4.3.Floats

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

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.

4.4.Receipts

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

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.

4.5.Cheques

In this section 'you' means a charitable institution or third-party fundraiser.

4.5.1.

You must either bank cheques or send them to your fulfilment house (if you use one) as soon as possible.

4.5.2.

If you are sending cheques to a fulfilment house or external organisation for processing, you must make sure the method of sending the cheque is appropriate to the value of the cheque.

4.5.3.

You must not give change in return for cheques.

4.5.4.

You must not issue a refund for a cheque donation until the cheque has cleared and the money has appeared in your organisation's account.

4.6. Charity cheques and vouchers

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

Charity cheque and voucher accounts allow donors to make donations as a lump sum or regular amounts into an account which can then be used for making donations to registered charities (but not other charitable institutions). The agency managing the account will claim and add Gift Aid to the donation. The donor is given a book of vouchers or a 'chequebook' to donate this money to their preferred charities. On receiving the voucher or cheque, the charity receiving the donation contacts the agency and arranges for the donation to be transferred.

4.6.1.

You **must not** reclaim tax on the donation (the amount of the charity cheque or voucher) if you are the charity receiving the donation, as the Gift Aid was added before you received it.

4.6.2.

You must bank or cash in vouchers as soon as possible, ideally the next working day, unless the agency issuing the vouchers asks you to do otherwise.

4.7. Card transactions

In this section, ‘you’ means a charitable institution or third-party fundraiser.

This section applies to transactions both where the donor is present and when they are not. The steps you need to take to make sure payments are secure will vary depending on the number of transactions that are made.

4.7.1.

You must meet the Payment Card Industry Data Security Standards (PCI-DSS).

For more standards on processing data, see **section 3 Processing personal data (information)**.

4.7.2.

You must use extra security measures such as Verified by Visa and 3D Securecode for online transactions if you have the resources for this.

4.7.3.

If you are charged for transferring payments, you must record the total donation amount as income, and record the charges in your accounts as ‘expenditure’.

4.8. Direct debits

In this section, ‘you’ means a charitable institution or third-party fundraiser.

The procedures and rules to do with direct debits will vary depending on the bank you use. The Direct Debit Guarantee Scheme provides consistent standards and protection to customers.

4.8.1.

If you have signed up to the Direct Debit Guarantee Scheme, you **must** meet its standards.

4.9. Gift Aid

In this section, ‘you’ means a charitable institution or third-party fundraiser.

Gift Aid allows registered charities to reclaim tax on donations made by UK taxpayers. This effectively increases the amount of the donation.

4.9.1.

You **must** only claim Gift Aid for a donation if all of the Gift Aid conditions are met. One of these is that a donor's Gift Aid declaration **must** meet HMRC's guidance on Gift Aid.

4.9.2.

If you want to make a tax relief claim under the Gift Aid Small Donations Scheme, you **must** only do so if all of the scheme's conditions are met.

Further guidance

- HM Revenue & Customs: **Charities: detailed guidance notes on how the tax system operates – Chapter 3: Gift Aid**
- HM Revenue & Customs: **Charities: detailed guidance notes on how the tax system operates – Chapter 8: The Gift Aid Small Donations Scheme**