

The Institute of Fundraising is a charity registered in England and Wales (No 1079573) and Scotland (No SC038971), and a company limited by guarantee (No 3870883). VAT registration number 547 8930 96.



# Face-to-Face Activity Code of Fundraising of Practice



**December 2009**

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## 1.0 The Codes of Fundraising Practice Explained

The Institute of Fundraising's **Codes of Fundraising Practice** are structured in order to highlight what is mandatory at law, what the Institute regards as a mandatory requirement for its members and what constitutes advice on best practice.

In this Code a phrase where the word:

**MUST** is in bold indicates a requirement that is mandatory at law.

**OUGHT** in bold indicates a requirement that is mandatory for members and affiliated organisations of the Institute.

**SHOULD** in bold indicates a course of action that is recommended as best practice.

Organisations engaged in fundraising **SHOULD** join the Fundraising Standards Board and **SHOULD** follow their complaints procedure.

This **Code of Fundraising Practice** is intended to address fundraising

activity throughout the UK. Legal requirements can vary between different jurisdictions (England & Wales; Northern Ireland; Scotland).

In this Code, **MUST\*** in bold indicates a legal requirement within one jurisdiction but not in others.

The Institute recommends that organisations adhere to the most rigorous interpretation of the law applicable to an activity.

Users should be aware that this Code addresses the law as it stands at the date of publication throughout the UK.

Reviews of the law relating to fundraising and fundraising activities, governance and charitable status are ongoing in Scotland, England and Wales.

This **Code** will be revised to take into account any developments or changes in the law that may result from these initiatives.

## 2.0 Introduction

Face-to-Face activity is the commonly used term for both the personal solicitation in public places of committed gifts by direct debits and/or standing orders, and for all other forms of personal engagement in such places where that engagement is designed to initiate a lasting relationship with a given fundraising organisation.

Face-to-Face activity can provide an effective means by which members of the public can demonstrate their committed support, whether financially or otherwise, to a wide range of charities and other voluntary organisations. Not all Face-to-Face activity results in a request for money; it may simply seek to record belief in a cause or support for a campaign. A request for money may follow at a later date.

Undertaken within the parameters of this Code of Fundraising Practice, Face-to-Face activity can enable charities and other voluntary organisations to communicate with existing and potential supporters in an effective and sensitive manner without causing public nuisance or disturbance.

This Code of Fundraising Practice concerns itself specifically with unsolicited personal approaches to members of the public for support to fundraising organisations however and wherever that is undertaken.

- Due to the necessarily broad definition of 'Face-to-Face', some Face-to-Face activity may apparently or actually overlap with other established fundraising methods (for instance lotteries, Payroll Giving etc.), therefore care **SHOULD** be taken when planning a campaign to cross reference with other Codes which may be applicable such as the House-to-House Collections Code of Fundraising Practice.

### 2.1 Definitions

There are a number of different individuals and organisations potentially involved in planning and managing Face-to-Face activities. Each will have different roles and responsibilities in the appropriate conduct of the activity. Therefore, it is important at the outset of the Code of Practice to have clarity of the definition of these individual roles and organisations.

#### Face-to-Face Activity

This describes both the personal solicitation of committed gifts by direct debits and/or standing orders in public places and all other forms of personal engagement in such places designed to initiate a lasting relationship with a given fundraising organisation. For the purpose of this Code, it does not include pre-arranged meetings such as with potential legators.

- Care **SHOULD** be taken when visiting certain places such as businesses or

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other places of work – see the ‘House-to-House Collections’ Code of Fundraising Practice.

#### Face-to-Face Engagement

This specifically describes a situation whereby a personal engagement takes place, initiated in order to begin a lasting relationship with the given fundraising organisation. Together with Face-to-Face fundraising, it falls within ‘Face-to-Face activity’.

#### Face-to-Face Fundraising

This specifically describes the personal solicitation of committed gifts by direct debits and/or standing orders in public places. Together with Face-to-Face engagement, it falls within ‘Face-to-Face activity’.

#### Fundraising Organisation

A fundraising organisation is a charity or other not-for-profit making body that benefits from the fundraising activity.

#### Organiser

The organiser has overall responsibility for the campaign. An organiser might be a fundraising organisation or professional fundraising organisation, or an individual from such an organisation.

#### Provider

This is an organisation that implements the fundraising activity. Sometimes this may also be the fundraising organisation itself (when it will usually be referred to as an “In-House”) but it is usually a professional fundraising organisation.

#### Public Place

##### England and Wales

This is any place where members of the public generally go even if they have no legal right to do so or any place where they are invited to go. For the purpose of this Code it should be treated as including such spaces as station forecourts, shopping malls and supermarket car parks.

It does not include any place to which members of the public are permitted to have access only if any payment or ticket required as a condition of access has been made or purchased; or any place to which members of the public are permitted to have access only by virtue of permission given for the purposes of the activity in question.

The definition of ‘public place’ in England and Wales is due to change with the introduction of new public collection regulations under the Charities Act 2006. In England and Wales a public place will be:

- any highway; and
- any other place to which, at any time when the appeal is made, members of the public have, or are permitted to have, access (other

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than on payment or with a ticket and other than by way of permission granted for the specific appeal) and which either is not within a building, or, if within a building, is an area to which the public are generally admitted within any station, airport or shopping precinct or any other similar place.

#### Scotland

Any place (whether a thoroughfare or not) to which the public have unrestricted access and includes:

- a) the door ways or entrances of premises abutting on any such place; and
- b) any common passage, close, court, stair, garden or yard pertinent to any tenement or group of separately owned houses.

The definition of public place will change in Scotland when the Public Benevolent Collections provisions contained in the Charities and Trustee Investment (Scotland) Act 2005 are commenced.

#### UK

- Organisers **SHOULD** verify whether the new definition and/or regulations are in place.

### 2.2 Individual Role Descriptions

This Code uses the following definitions for individual roles. In some cases an individual may have more than one role. The scale and form of Face-to-Face activity that a fundraising organisation plans to conduct will determine the extent to which different people play each of these different roles. However:

- the key tasks **OUGHT** to be identifiable within specific individuals' roles and responsibilities.

#### Agent

A person who enters into a dialogue with a member of the public with the aim of engaging them in a cause or belief, with a view to initiating any form of long term relationship other than an immediate financial one (see 'Fundraiser' below).

#### Fundraiser

For the purpose of this Code, 'fundraiser' refers only to those people that make a direct solicitation of money or property.

#### Professional Fundraiser

See definition in Section 8.

#### Fundraiser/Agent Manager

The person within the fundraising organisation who has responsibility for the overall activity. They *commission* the activity, agree the campaign budget and monitor progress against budgets and objectives including the stewardship of new, regular

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donors or supporters to ensure long term support.

#### Campaign Manager

The person within the fundraising organisation who on a day-to-day basis is *managing* the activity, e.g. who holds information on site usage, responds to enquiries/complaints.

#### Project Manager

The person within the Provider who has day-to-day responsibility for the *delivery* of the activity, e.g. who is responsible for access to sites, briefing of fundraisers/agents, responds to enquiries/complaints.

#### Team Leader

The person within the Provider or the fundraising organisation who has immediate and on-site *supervision* of the activity (e.g. manages the team, ensures sites are appropriately and safely used, ensures appropriate conduct of fundraisers/agents); or the person within the Provider or the fundraising organisation who supervises the activity for door-to-door but may not be on site.

### 3.0 Considering Face-to-Face Activity

- Before embarking on a Face-to-Face campaign, fundraising organisations **SHOULD** consider the following:
  - the length and long-term objectives of the campaign;
  - what internal resources can the organisation devote to this form of fundraising? In order to be effective, Face-to-Face activity requires an investment of time and resources by the fundraising organisation. The activity requires a campaign manager and, depending on the scale of the activity, it may become a substantial part of their role;
  - who are the stakeholders within the fundraising organisation who need to be engaged or informed about this activity? It can be high profile, which may attract media attention. The stakeholders may include trustees, local volunteers, service providers, other fundraising staff, public relations practitioners and 'help-line' and general reception staff;
  - will the fundraising organisation conduct the Face-to-Face activity itself or will it use an agency to conduct it on its behalf? If using a Provider, the fundraising organisation **SHOULD** refer to the Institute of Fundraising's Best Practice for Fundraising Contracts Code of Fundraising Practice; and
  - the impact of the activity on members of the public and other legitimate activities that take place in public places.

## 4.0 Conduct of Fundraisers/Agents

### 4.1 Conduct of Approaches

- Fundraising organisations **OUGHT**:
  - to undertake Face-to-Face activity in such a manner that neither the fundraising organisation nor the provider is brought into disrepute; and
  - to never deliberately confuse, mislead or obstruct the public – see the Accountability and Transparency Code of Fundraising Practice.
- In conducting Face-to-Face activity fundraising organisations **SHOULD**:
  - give potential donors clear information about the cause and fundraising organisation they are being asked to support and, where appropriate, the need for funds and the importance of the long term nature of that support;
  - ensure that the name of the fundraising organisation is prominently displayed on the agents'/fundraisers' person; and
  - never use communication mediums (printed, visual or verbal) other than those agreed previously with the fundraising organisation.

All of the above apply to approaching groups of people as well as individuals.

## 5.0 Planning a Face-to-Face Campaign

### 5.1 General

- As with other street activities such as public collections, ultimately the organiser **OUGHT** to always check the access management requirements with the relevant local authority(/ies) beforehand and comply with those requirements where reasonable and applicable.
- Fundraising organisations and providers **MUST** ensure that they are compliant with the law.

### 5.2 Recruitment and Payment of Fundraisers/Agents

- The project manager of the activity **SHOULD** be responsible for the recruitment, training and adequate supervision of all fundraisers/agents.
- Whilst there is no legal prohibition on employing agents/fundraisers between the ages of 16 and 18, best practice suggests that, to ensure the highest confidence in the security of personal data, fundraisers handling financial information and/or any sensitive data **OUGHT** to be at least 18 years of age.

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- Agents handling non-financial information and/or non-sensitive data **SHOULD** be at least 16 years of age.

There are different requirements for people under 18, under the Working Time Regulations.

- The project manager of the activity **OUGHT** to ensure that the agents'/fundraisers' recruitment process identifies and eliminates potential recruits with a criminal record indicating unsuitability, subject to Data Protection regulations and Human Rights legislation.

In practice, a declaration on application forms and interview will suffice.

- Where remunerated, fundraisers/agents **MUST** be legally entitled to work in the United Kingdom, within the terms of their work status.
- If volunteers are used, Providers and fundraising organisations **OUGHT** to comply with the Volunteer Fundraising Code of Fundraising Practice.
- The project manager of the activity **OUGHT** to be clear about the relationship between the Provider and the fundraising organisation during the recruitment and training process, if the Provider and fundraising organisation are different organisations.

This is especially important in the context of "In-House" operations where a fundraising organisation may be its own 'Provider'. In certain cases, agents/fundraisers may not be employed by the fundraising organisation but through an agency in what is sometimes called an "arm's-length" relationship.

- Fundraising organisations **OUGHT** to be aware that the perception that the agents/fundraisers are actually working for the fundraising organisation rather than the agency can raise problems in terms of management and maintenance of morale.
- The project manager of the activity **SHOULD** ensure, where paid, all fundraisers/agents are contracted with appropriate contracts in place.
- These **SHOULD** include a clause stipulating compliance with this Code of Fundraising Practice.
- Then, where all fundraisers/agents are employed by the fundraising organisation, the organiser **MUST** be responsible for ensuring that the fundraisers/agents are remunerated within any minimum wage regulations that are applicable and work within hours as permitted by the Working Time Regulations.

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The Institute of Fundraising does not recommend the payment of fundraisers/agents on a commission-only basis in most circumstances but recognises there is a range of different ways of structuring remuneration, including 'performance-related' methods.

- The fundraising organisation **OUGHT** to be satisfied that an appropriate payment structure is in place that safeguards the income it will receive from the fundraising activity.

See the Payment of Fundraisers Code of Fundraising Practice for further information.

#### England and Wales

- The Institute of Fundraising recognises that transparency to the public is paramount (see the Accountability and Transparency Code of Fundraising Practice) and notes that in England and Wales Professional Fundraisers as well as officers, employees and trustees of a charitable institution (if paid) **MUST\*** comply with certain transparency requirements set out in the Charities Act 1992. They **MUST\*** make a statement specifying:
  - the institution or institutions for which they are raising funds;
  - if there is more than one institution, the proportions in which they are to benefit; and
  - if they are Professional Fundraisers, the method by which their remuneration is determined and the “notifiable amount” of that remuneration (this will be the remuneration of the professional fundraising organisation if the fundraiser is employed by such an organisation); or
  - if they are paid officers, employees or trustees of the institution acting as collectors in a public charitable collection, the fact that they hold those positions and that they are receiving remuneration (where applicable). A public charitable collection is a charitable appeal which is made in any public place or by means of visits to houses or business premises (or both). A charitable appeal is an appeal to members of the public for them to give money or other property or involves offering to sell or supply goods or services or exposing goods for sale. For these purposes, a public place is defined as under the Charities Act 2006 (see definitions).

The notifiable amount is the actual amount if known at the time or the estimated amount calculated as accurately as possible. Further information and guidance is available from the Office of the Third Sector website.

- This guidance may be subject to change so clarification from the Office of the Third Sector and/or professional legal advice **SHOULD** be sought.
- Such a statement **MUST\*** be made at the time of the solicitation and so, in

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practice, before a donor has authorised an agreement to donate.

### Scotland

- In Scotland, the Charities and Benevolent Fundraising (Scotland) Regulations 2009 set out what professional and benevolent fundraisers **MUST\*** state regarding their remuneration.

Further information about the detail of these statements is available in Section 8.0.

### Northern Ireland

In Northern Ireland, the new Charity Act will introduce new controls on professional fundraisers and commercial participators, similar to those in England and Wales.

### UK

- Managers of fundraisers/agents that are **not** professional fundraisers (e.g. those not occupied in soliciting “money or other property”, such as those involved in data capture or other engagement strategies) **SHOULD** carefully consider the benefits of absolute clarity in making an appropriate statement if they are paid to solicit and/or collect information.
- There is a growing public awareness that disclosures will be given and careful thought **SHOULD** be given to the potential effect on the fundraising organisation’s brand of a failure to do so, even where not legally required.

Further information about the sorts of statement that could be made is available on the Office of the Third Sector website (see 9.2).

### 5.3 General Training and Professionalism

- Fundraising organisations **OUGHT NOT** to undertake Face-to-Face activity without a prior, structured training and briefing programme for all fundraisers/agents.
- Training **OUGHT** to be refreshed and appraised at regular intervals.

#### 5.3.1 Basic Training

- Fundraising organisations **OUGHT** to ensure that all fundraisers/agents are properly trained before engaging in any personal approaches. Basic training needs to specify how to make approaches that comply with the law.
- Training **OUGHT** to be provided in person by an authorised and suitable appointee and **OUGHT** to include involvement from the fundraising

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organisation.

It is good practice to monitor, benchmark and improve such training at regular intervals.

- Precise content of training sessions will vary. However, as a minimum, basic training **OUGHT** to include:
  - an awareness of the Charities Act 1992, the Charitable Institutions (FundRaising) Regulations 1994, Charities and Trustee Investment (Scotland) Act 2005 and the Charities and Benevolent Fundraising (Scotland) Regulations 2009;
  - the importance of providing clear written, or verbal information to the public about possible follow-up communications;
  - emphasis on the charitable, benevolent or philanthropic nature of the solicitation;
  - emphasis on the non-aggressive nature of all approaches;
  - the importance of making an appropriate and legally compliant solicitation statement (see the Office of the Third Sector's and OSCR's guidance for further information);
  - the importance of only carrying out the Face-to-Face activity within the time and location agreed with the project manager and any relevant access authority;
  - the importance of visible ID badges and branding;
  - matters of personal security;
  - the importance of appropriate positioning, body language and physical presence at the activity location;
  - procedures to avoid obstruction, congestion and nuisance to the public;
  - procedures to ensure that potential supporters are not placed under inappropriate pressure to give their support ;
  - the need to employ all best efforts not to approach members of the public under the age of 18 years for the solicitation of committed gifts;
  - procedures to ensure that appropriate common sense and courtesy are applied when considering approaching particular individuals such as the elderly, differently-abled etc., taking into consideration their possible personal circumstances (e.g. anxiety, communication difficulties) and the physical circumstances of the interaction (dark or noisy environments etc.);
  - knowledge and understanding of Data Protection principles governing the collection of personal data from supporters, particularly relating to the disclosure of 'Sensitive Personal Data' by a supporter e.g. their medical history. See the Data Protection Code of Fundraising Practice;
  - knowledge and procedures of the complaints procedure associated with the activity and the role of the Fundraising Standards Board;
  - an immediate agreement to terminate the approach in a polite manner at any stage during the course of the approach, when asked to do so;
  - clarification that on-going training will be provided to all

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fundraisers/agents together with an agreed programme of regular appraisal and briefing updates.

### 5.3.2 Briefing for Charity Campaigns

- Fundraising organisations **OUGHT** to brief all fundraisers/agents properly before they engage in any personal approaches.
- The fundraising organisation associated with the proposed approach **OUGHT** to approve the materials for use in the approach.

The type of briefing will vary in different contexts.

- However, as a minimum requirement, the project manager and campaign manager of the Face-to-Face activity **OUGHT** to ensure that briefing procedures are properly documented in a briefing manual agreed with the fundraising organisation, which includes:
  - the name and, where different, the name and contact details of the fundraising organisation(s) that will benefit from the approach and contact details of the organisation(s) making the approach;
  - an explanation of the objects and/or mission of the fundraising organisation;
  - if fundraising, why the money is needed (taking care as to whether or not such a statement creates restricted funds);
  - information about clarity of approach and instruction as to the tone, style and content of the approach;
  - details of all support and administrative literature connected with each approach;
  - details of the administrative procedures to be maintained during and following the Face-to-Face approach;
  - an explanation of how supporters' details will be used and emphasis that supporters have to be informed of how their details will be used at the time of data capture;
  - recognition that the fundraiser/agent will not disclose any information relating to the fundraising organisation other than that previously agreed with the fundraising organisation and contained within the context of the briefing given immediately prior to the Face-to-Face activity;
  - details of the complaints procedure associated with the activity and the role of the Fundraising Standards Board, where appropriate; and
  - details of the key contact directly responsible for the Face-to-Face activity within the fundraising organisation conducting it and/or the agency (which is usually the campaign manager).

It is good practice for the fundraising organisation's staff to provide some initial training and refresher training at regular intervals throughout the campaign.

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- The importance of the longevity of any gift or commitment **OUGHT** to be stressed to all fundraisers/agents.
- In cases where the primary aim of the Face-to-Face activity is to secure a form of non-financial commitment, but there is a possibility that the fundraising organisation will subsequently ask for a financial commitment from anyone with whom a relationship has been established (i.e. ‘engaged’), then all agents **MUST**:
  - be made aware of this fact at the briefing session; and
  - during the initial Face-to-Face activity, inform the individual being engaged of the possibility of a subsequent financial commitment request from the fundraising organisation in the future.

## 6.0 Identification and Management of Operating Locations

### 6.1. Identifying Appropriate Sites

Throughout the UK, different governing bodies have statutory and non-statutory requirements. In most instances, the local authority will be the relevant statutory body governing a public place and the police have responsibility for public protection. For example, in Northern Ireland the Northern Ireland Police Service licenses sites and the Metropolitan Police Service is the relevant authority in its area of operation.

In some cases, local authorities may delegate site allocation to the Public Fundraising Regulatory Association (PFRA).

- To clarify who is responsible for managing the site, organisers **OUGHT** to contact the PFRA.

Organisers may then be directed to the local authority or the police if the PFRA does not have responsibility for the site in question.

- If the PFRA has responsibility for the sites in question, organisers of Face-to-Face activity **SHOULD** refer to the PFRA’s site allocation booking system.
- Fundraising organisations and professional fundraising organisations engaged in Face-to-Face activity **SHOULD** consider becoming members of the PFRA (see 9.1).
- No Face-to-Face activity **OUGHT** to be carried out unless the project manager is satisfied that access for the approaches has been agreed by the relevant access authority/ies (local authority, town centre manager or the police).

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- This **SHOULD** include formal approval from all appropriate access authorities which in most cases will be the local authority and the police.

## 6.2 Accessing Sites in Streets and Places of General Public Access

- Where possible, a Site Agreement **OUGHT** to be in place between the Face-to-Face activity organisers and relevant access authority.

This seeks to establish a code of conduct that allows the agents to approach members of the public without inconveniencing them.

- Organisers **SHOULD** contact the PFRA and obtain details of any relevant Site Agreement.
- Where no PFRA Site Agreement exists, or for non-PFRA members, organisers **SHOULD** contact the relevant access authority directly and follow the guidance below.
- A Site Agreement **SHOULD** state:
  - the named identity, title and authority of a key contact within the appropriate access authority and, where possible, to have written notification from them;
  - the location of sites proposed to be used for the fundraising activity;
  - dates and times when approaches will be made;
  - the types of solicitation that will be made (for direct debits or for other forms of engagement);
  - the name and contact details of the organisation undertaking the activity;
  - the name and contact details of the project manager within the organisation; and
  - the name and contact details of the fundraising organisation(s) that will benefit from the activity.
- The project manager **SHOULD** maintain a written record of all relevant communications including the date, time, name, authority and contact details of correspondent(s) together with a note of the outcome of each contact.
- The project manager **SHOULD** confirm the agreement with the relevant contact, in writing, at the earliest opportunity and before the commencement of any Face-to-Face activity.
- The project manager **SHOULD** ascertain whether the local police require notification of Face-to-Face activity and abide by this policy, if requested.

## 6.3 Accessing Appropriate Operating Sites for House-to-House Activity

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- The project manager of the Face-to-Face activity **MUST** comply with appropriate and relevant legislation.

In England and Wales, unless the fundraising organisation holds a National Exemption Order, a local authority licence is required if the fundraising organisation or agency is soliciting a commitment to donate at the point of interaction. If the initial visitation is only to deposit promotional literature and secure permission to return at a later date to effect a solicitation, then a licence is not required. In Scotland, a licence from the local authority is not needed for Face-to-Face fundraising although this may change with the introduction of the new public benevolent fundraising regulations.

- Until then, local authorities **OUGHT** to be informed of any Face-to-Face activity being carried out in the area.
- Wherever possible, project managers **SHOULD** ensure that only one unsolicited approach is made to a particular dwelling on behalf of a particular fundraising organisation in a six month period.
- Fundraisers wishing to carry out cold calling in a Cold Calling Control Zone (CCCZ) **OUGHT** first to establish whether fundraising is permitted in the zone.
- If it is not then they **SHOULD** seek further information from the local Trading Standards Service so that they can assess whether the zone has been established in accordance with the spirit of the Trading Standards Institute guidance on CCCZs and in particular whether:
  - a proportionate approach has been taken to implementing measures to benefit consumers;
  - the creation of the zone complies with the requirement that there be intervention only where there is a clear case for protection of consumers; and
  - the zone is tightly targeted, has the agreement of local people and is based on local need and the needs of vulnerable communities
- If a zone has been created legitimately, following the Trading Standards Institute's guidance, fundraisers **OUGHT NOT** to cold call.
- If a zone does not meet the requirements above or fundraisers are unable to obtain the information, the fundraisers **SHOULD** assess the risks of carrying out cold calling within the zone. In particular, they **SHOULD** consider:
  - the reputational risk arising from flouting local wishes. There may be adverse press comment as well as animosity from residents and complaints to the local Trading Standards Service and the Fundraising Standards Board;

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- many residents may believe that the zone is enforceable and has legal basis;
  - whether and how approaches should be made to houses which display a 'no cold callers' sticker;
  - how they will justify the fundraising organisation's position; and
  - whether the benefit to the fundraising organisation is likely to outweigh the detriment
- Fundraisers **SHOULD** ensure that their organisation's board or those with the appropriate delegated authority have approved a policy on this matter before carrying out cold calling in a CCCZ.

See also the House-to-House Collections Code of Fundraising Practice.

## 7.0 After the Face-to-Face Activity has Taken Place

- All personal information **MUST** be collated and returned to the project manager in a prompt and secure manner as agreed by the fundraising organisation and in compliance with Data Protection law.
- The project manager **OUGHT** to agree with the fundraising organisation an appropriate mechanism for the administration of collected information and the apportionment of responsibilities associated with them.
- The project manager **OUGHT** to agree with the fundraising organisation an appropriate mechanism for addressing questions and complaints associated with all aspects of the activity, and this **OUGHT** to be maintained in writing.
- The fundraising organisation **OUGHT** to transmit promptly complaints that it receives connected with the activity undertaken in its name to the project manager and vice versa.

## 8.0 Key Legal Points

- Organisers **MUST** check whether the new laws are in force before proceeding with the activity.

### England and Wales

This revision of the Code is based on the current law in the UK in May 2008. Significant changes will occur when the Public Collections provisions of the Charities Act 2006 are implemented, which is not expected before 2010.

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- Where the fundraising activity is undertaken by professional fundraising organisations on behalf of fundraising organisations, the professional fundraising organisation **MUST\*** ensure that it complies in full with the requirements of Part II of the Charities Act 1992. See Section 5.2 for further information on the fundraising statement.
- There **MUST\*** be a contract between the professional fundraising organisation and the fundraising organisation.

In England and Wales, a professional fundraiser is any person (apart from the charitable institution or a company connected with such an institution) who carries on a fundraising business for gain which is wholly or primarily engaged in soliciting or otherwise procuring money or other property for charitable, philanthropic or benevolent purposes; or any other person who solicits for reward money or other property apart from:

- any charitable institution or connected company;
- any officer, employee or trustee of a charity or connected company; acting in his capacity as such. Note, however, that although excluded from the definition, these people are now required to make statements as if they were professional fundraisers;
- any charity trustee;
- any public charitable collector – other than promoters;
- people who solicit funds on TV or radio; or
- any commercial participator.

In addition, the definition of a professional fundraiser in England and Wales does not apply to a fundraiser who does not carry on a fundraising business if the fundraiser receives £1,000 or less by way of remuneration in connection with a particular venture or £10 per day or £1,000 or less per year.

#### Scotland

Scottish law also requires there to be a written agreement between the fundraising organisation and professional fundraiser.

- Fundraising organisations **MUST\*** make sure they comply with the law as it stands at the time of the campaign. The Office of the Scottish Charity Regulator (OSCR) can provide more information. The Institute of Fundraising also has a Code of Fundraising Practice for fundraising in Scotland which will be updated when appropriate.
- Professional fundraisers (or their employees) as well as officers, employees and trustees of a charitable institution **MUST\*** make a statement specifying:
  - the institution or institutions for which they are raising funds and if there

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- is more than institution, the proportions in which they are to benefit; or
- if they are raising funds for general charitable, benevolent and philanthropic purposes (rather than a particular body), an indication of this fact and the details of how the distribution of funds will be determined; and:
- if they are professional fundraisers (or their employees), details of whether they are to receive remuneration (if the solicitation is being conducted orally, the professional fundraisers (or their employees) **MUST\*** also indicate that the information contained within the statements is also available in writing); and
- if they are paid officers, employees or trustees of the institution, the fact that they are receiving remuneration.

### Northern Ireland

Northern Ireland presently has no equivalent regulation of professional fundraisers or commercial participators nor requirement for written agreements. However, the new Charity Act will introduce new controls on professional fundraisers and commercial participators which will include a requirement for a written agreement, clarification of key information relating to the collection and its purposes. The aim is to increase accountability and provide greater transparency for donors and will be similar to the Regulations in England and Wales and Scotland.

### UK

- For further information, see the Best Practice for Fundraising Contracts Code of Fundraising Practice.
- All activity **MUST** conform with Data Protection law. See the Data Protection Code of Fundraising Practice.
- The fundraising organisation **MUST** seek to clarify the ownership of copyright with respect to all materials and databases connected with the activity, prior to instigating that activity.
- The Provider of the activity **SHOULD** be mindful of its potential liabilities with respect to fundraisers/agents employed by it or by others who are engaged in the Face-to-Face activity on its behalf.

## 9.0 Appendices

### 9.1 The Role of the PFRA

The Public Fundraising Regulatory Association (PFRA) is a UK-wide self-regulatory body for organisations involved in Face-to-Face activity in public places, (whether they be charities commissioning the activities (“Users”) or Professional Fundraising

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Organisations (PFOs) providing appropriate services (“Providers”). It exists to promote best practice in the execution of Face-to-Face.

In addition it seeks, where permitted by law or local authority agreement, to allocate effective operating sites and opportunities among its members on an equitable basis. It also operates an ‘overlap avoidance’ scheme for door-to-door practitioners (those involving an ongoing commitment, rather than traditional house-to-house collections).

## 9.2 Useful Contacts

- Charity Commission  
[www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)
- Fundraising Standards Board  
[www.frsb.org.uk](http://www.frsb.org.uk)
- Institute of Fundraising  
[www.institute-of-fundraising.org.uk](http://www.institute-of-fundraising.org.uk)
- Office of Fair Trading  
[www.offt.gov.uk](http://www.offt.gov.uk)
- Office of the Scottish Charity Register  
[www.oscr.org.uk](http://www.oscr.org.uk)
- Office of the Third Sector  
[www.cabinetoffice.gov.uk/third\\_sector](http://www.cabinetoffice.gov.uk/third_sector)
- PFRA  
[www.pfra.org.uk](http://www.pfra.org.uk)
- Trading Standards Institute  
[www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk)
- Working Time Regulations  
[www.berr.gov.uk](http://www.berr.gov.uk)

## 9.3 Working Party

- Milly Ahmed, Gift
- Mick Aldridge, PFRA
- Chris Ashworth, Oxfam
- Alice Carter, British Red Cross
- Morag Flemming, Quarriers
- Nick Henry, Concern Worldwide
- Caroline Howe, Institute of Fundraising
- Ben McNaught, Shelter
- Megan Pacey, Institute of Fundraising
- Sharon Rasmussen, Dialogue Direct
- Judith Rich OBE (Chair)
- Rupert Tappin, Future Fundraising
- Claire Thomas, VSO
- Kathryn Toner, Cancer Research UK

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Institute of Fundraising Code Working Parties provide advice and make recommendations to the Institute's Standards Committee in the process of Code development.

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