



Major Donors Code Fundraising of Practice

Check-list: key questions to ask

- Is a confidentiality policy in place relating to prospect research and donors? (3.3, 6.1, 8.3)
- Does the activity comply with data processing regulations? (3.4, 6.1, 6.2, 8.3)
- Is best practice followed when undertaking prospect research? (3.3, 3.6, 3.7, 3.8)
- Has an informative outline of the cause been prepared? (4.1)
- Are prospects clearly informed of the charity's identity when approached? (3.3)
- Are restricted gifts viable and treated as such? (4.2, 6.1, 8.4)
- Do all fundraising materials accurately reflect the cause, mission and use of funds? (4.2, 4.3)
- Do fundraisers behave appropriately? (4.4, 4.6, 7.2)
- Has a risk assessment been carried out? (4.5)
- Are fundraisers properly trained and briefed? (4.6)
- Are any incentives appropriate and deliverable? (5.1)
- Can all conditions on gifts be met, both legally and practically? (4.2, 5.1)
- Is an ethical policy in place in regards to accepting donations? (5.1)
- Are donations acknowledged appropriately? (5.2)
- Are donors encouraged to seek financial advice where appropriate? (5.2)
- Are any specified reporting requirements complied with? (6.1)
- If potentially serious problems arise with the project, are donors informed? (6.1)
- Is consent from the donor obtained for any changes in the application and/or conditions of the gift? (6.1)
- Is the establishment of any major donor membership scheme carefully considered and allowed by the organisation's governing documents? (7.1, 7.2, 7.3)
- Is care taken to ensure undue pressure is not put on donors? (7.2)
- Can donors opt-out of any membership schemes or public recognition of support? (6.1, 7.2)
- Is professional advice sought, where necessary? (7.2, 8.7)
- Does any membership scheme offer control or direct influence on the organisation's decision-making process? (7.2)
- Are any benefit packages or reciprocal arrangements agreed in advance? (8.6)
- Are professional fundraiser regulations abided by, where appropriate? (8.1)
- Are records kept of known information in cases where donors may be considered vulnerable? (8.2)

- Are policies in place to recognise and appropriately deal with any potential money laundering or other illegitimate activity? (8.5, 8.7)
- If approached by a new donor, do fundraisers ascertain the identity of the supporter and carry out a risk assessment? (8.5)
- Are fundraisers aware of potential restrictions on money from abroad? (8.5)
- Are all restricted gifts used for bona fide charitable endeavours? (8.5)
- Is sufficient information provided to enable the charity to verify the nature of the receipt to auditors and tax authorities? (8.6)
- Has the VAT status of any benefits to donors been clarified? (8.7)
- Do arrangements need to be disclosed to the tax authorities? (8.7)

2006

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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, Wales and Northern Ireland.

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

Major donor fundraising is about people and relationships. It involves the entire organisation from the chief executive officer to the administrative assistant working in a team to secure the gift. It also involves the family, friends and associates of the major donor affecting the timing, size, regularity, purpose and method of the gift and requires the fundraiser to be resourceful and responsive. Major donor fundraising is usually not an isolated process but a team effort which yields a mutually beneficial outcome for all, yet it is very rarely done in an overt way. There are no broad brush techniques and it can often be difficult to define the next step.

Major donations aren't always planned. Nor are they always made for philanthropic or altruistic reasons, but, whatever the circumstances, the major donor should take pleasure in making the gift and the fundraiser or organisation be pleased to receive it.

This Code has been written to provide guidance on best practice in raising funds from major donors. This Code does not delve into fundraising techniques about how to raise major donations. Instead, the Code is written to inform the reader about important factors which relate to major donor fundraising.

2.1 About this Code

This Code first defines a major donor and what constitutes major donor fundraising. It then sets out best practice and the law for prospect research, cultivation, solicitation, stewardship of the gift, managing gift club schemes and key legal and tax issues. This Code is applicable to all fundraisers, including prospect researchers and consultants, who are engaged in major donor fundraising.

2.2 Defining a Major Donor and Major Donor Fundraising

For the purposes of this Code, a major donor is an individual or family with the potential to make or procure a gift which would have a significant impact on the work being conducted, who is approached and/or cultivated using personal relationship development fundraising techniques for the mutual benefit of the organisation and the donor. The gift may be of capital, revenue, time or influence. See the Charities working with Business and Fundraising from Grant Making Trusts Codes of Fundraising Practice for specific information on these activities.

While it is understood that what is required to make a significant impact will be different for different organisations, this Code is particularly relevant to large financial gifts. Personal relationship development refers to the method of fundraising most relevant for major donor fundraising and specifically excludes such methods as direct mail and methods covered by other relevant Codes. Mutual benefit relates to a degree of reciprocity for both the donor and the organisation from the gift that is made.

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Arrangements whereby gifts are raised by the donor from others are dealt with in the Volunteer Fundraising Code of Fundraising Practice Volunteer Fundraising (see 9.1)

3.0 Prospect Research

3.1 The Role of Prospect Research in Major Donor Fundraising

The purpose of prospect research within major donor fundraising is to maximise the potential of a major donor by gathering and managing a variety of information which the fundraiser can use to make their relationship with the major donor as rewarding as possible to both the major donor and the organisation.

3.2 Engaging in Prospect Research:

Before undertaking any prospect research, fundraisers **SHOULD** understand the key skills required for prospect research. These include:

- understanding how to analyse sources and data;
- understanding the motives behind charitable giving;
- understanding the fundraising process;
- proficiency in locating and processing relevant information;
- recognition of wealth indicators; and
- the importance of using up to date and relevant information.

3.3 Keeping Prospect Research Ethical

- Before engaging in prospect research, fundraisers **OUGHT** to develop a confidentiality policy that reflects the sensitivity of prospect research information.

This will aid in compliance with data protection legislation and ensure prospect research information acquired via channels other than the public domain is treated with the utmost respect.

- When conducting, presenting and storing prospect research, fundraisers **SHOULD**:
 - not use unethical methods to obtain prospect research information;
 - avoid personal prejudice and bias;
 - accept responsibility for their actions within the fundraising process; and
 - be honest and transparent with regard to their purpose and their identity.

3.4 Keeping Prospect Research Legal

- When conducting prospect research, fundraisers **MUST**:

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- comply with the law that governs the processing of personal data and sources, in particular the Data Protection Act (1998) and copyright law.

See the Institute of Fundraising Data Protection Code of Fundraising Practice for further information (see 9.1).

3.5 Prospect Research Sources and Techniques

- When conducting prospect research, fundraisers **SHOULD**:
 - understand the strengths and weaknesses of the sources they are using, including accuracy and 'use by' dates;
 - always use a range of sources;
 - always cite a source when it is directly used to produce research output;
 - regularly update the sources they are using;
 - have a clear understanding of what information is fair and relevant to the purpose it is being used for; and
 - have or develop knowledge of key research techniques.

3.6 Presenting and Storing Prospect Research

- When presenting and storing prospect research, fundraisers **SHOULD**:
 - have a clear understanding of the purpose of the research and present it accordingly;
 - ensure that the research they present is accurate, relevant to its purpose and timely; and
 - implement a method by which stored prospect research is regularly checked for accuracy and relevance.

3.7 Using External Research Suppliers

- When using external prospect research agencies, fundraisers **SHOULD**:
 - have a clear understanding of research requirements and develop a brief accordingly; and
 - ensure that all issues important to the organisation, such as data ownership, fitness for use and confidentiality, are governed by a legally binding contract.

3.8 Using Prospect Research

- Fundraisers **SHOULD** use prospect research to:
 - plan the best way to approach and/or cultivate major donor prospects;

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- decide who is best suited to approach the major donor for the first time to introduce the work of the organisation; and
- decide the most appropriate time for both the major donor and the organisation for an approach to take place.

Ensure that whoever is to make the initial approach has all the necessary information about the beneficiary organisation, its work and the major donor.

4.0 Cultivation

4.1 The Need or Case for Support

- Fundraisers **SHOULD** provide a clear and informative outline of the cause. Before 'making the ask', an informative outline of the cause **OUGHT** to have been prepared.

By first clearly defining the need, it will be possible to identify accurately who the prospective supporters might be.

4.2 Honesty and Transparency

- All major donor fundraising **OUGHT** be characterised by honesty, openness and fairness.

When approaching and/or cultivating a major donor prospect, fundraisers ought to inform the prospect clearly and immediately of the organisation's name, identity, legal status, its mission, and purpose.

- Fundraisers **SHOULD** offer the opportunity to major donor prospects to discuss the cause or request more information at any time.
- Donor cultivation **MUST NOT** mislead major donor prospects into believing that their donations will only be used for particular projects where this may not be the case.

For further guidance on issues of transparency, see the Institute of Fundraising Accountability and Transparency Code of Fundraising Practice (see 9.1)

4.3 Fundraising Materials

- Fundraisers **OUGHT** to ensure that all fundraising materials are accurate and correctly reflect the cause, mission, and how the solicited funds will be used.

4.4 Behaviour

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- Fundraisers **MUST** avoid illegal behaviour, such as deception, harassment and threatening behaviour.
- Fundraisers **OUGHT** to avoid the following:
 - using overtly forceful or coercive techniques in asking major donors for support;
 - withholding important information or exaggerating the facts relating to the potential beneficiary;
 - 'making the ask' prior to the fundraising taking reasonable steps to ensure that the donor knows as much about the cause and organisation as they possibly can (except in situations of raffles or auctions);
 - taking advantage of mistakes made by the major donor;
 - ignoring cultural or religious norms, conventions and etiquettes of the major donor;
 - using language, food, drink, clothing or behaviour which the major donor finds rude or offensive; and
 - using information about the major donor in any publicity or fund raising activities without their prior consent.
- Fundraisers and organisations **SHOULD** ensure that the same major donor prospect is not approached or cultivated by more than one person in the same organisation, unless this is in a co-ordinated fashion.

4.5 Health and safety of fundraisers

- Fundraisers and organisations **OUGHT** to conduct a risk assessment and **SHOULD** take due precautions in regard to personal safety while they carry out face-to-face meetings.

This may include avoidance of one-to-one meetings, provision of mobile phones, logging of times and locations of any visits and telephone calls to a third party or central office once a visit has been concluded.

4.6 Involving Others

- Fundraisers **SHOULD** maintain excellent internal and external relationships with major donors and with staff and volunteers.
- When there is a change in staff, a handover **OUGHT** to be undertaken.
- All fundraisers **SHOULD** undergo training to ensure that major donor fundraising is carried out in a responsible manner.
- Support (including relevant training, if appropriate) **SHOULD** be offered to non-fundraising staff and volunteers, **SHOULD** they be involved in major donor fundraising.

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For further guidance and information, see the Volunteer Fundraising Code of Fundraising Practice (see 9.1)

5.0 Solicitation

5.1 Making the Ask

- Fundraisers **SHOULD** think creatively in relation to the benefits a donor can offer, for example, gifts of land, shares, advice and contacts **SHOULD** be considered.
- When asking for a major gift, the person making the ask **SHOULD** do so when they feel the circumstances and timing are appropriate and they should be prepared to remain silent until the major donor prospect responds.
- Fundraisers **OUGHT** to ensure any incentives or gifts offered to the major donor are appropriate and deliverable.
- Organisations **MUST NOT** accept donations with conditions which they are not able legally or practically to fulfil.

See Section 8.0 Key Legal Points for more information.

- Organisations **OUGHT** to have an ethical policy with regard to the acceptance of donations.

See the Acceptance and Refusal of Donations and Charities Working with Business Codes of Fundraising Practice for more information (see 9.1)

5.2 Acknowledging Gifts

- Fundraisers **OUGHT** to ensure that all donors receive appropriate receipts (see section 8.0 Key Legal and Tax Issues).
- Fundraisers **SHOULD** be able to articulate the tax-effective options for major donor support.
- Where appropriate, fundraisers **OUGHT** to advise the major donor to seek relevant financial advice.
- When a donor agrees to make a donation the pledge **SHOULD** be promptly acknowledged in writing in anticipation of the receipt of the gift.

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- All appropriate members of the organisation's project staff and/or volunteers **SHOULD** be advised as soon as pledges are known, subject to confidentiality.
- When the donation is received, the gift **SHOULD** be promptly acknowledged in writing by an appropriate person, confirming the purpose of the donation and thanking the donor.

6.0 Stewardship

6.1 The Donor's Gift

- Fundraising organisations **MUST** ensure that major gift contributions are used to support the cause in accordance with the donor's stipulations.
- Fundraisers **SHOULD** ensure proper stewardship of major gift contributions, including timely reports on the use and management of funds.
- Any specified reporting requirements of a donation that have been agreed **MUST** to be complied with.
- If there are potentially serious problems with the cause (for example, the likelihood of significant delays to timetables or real risk of failure to complete), the major donor **OUGHT** to be informed as matters develop.
- Fundraising organisations **MUST NOT** make any change in the application and/or conditions of a gift unless there is consent from the donor when the donation is made. In any other situation, legal advice **SHOULD** be obtained.
- Fundraisers **SHOULD** invite major donors to become involved in the cause whenever appropriate.

7.0 Managing Gift or Donor Club Schemes

7.1 Donor Schemes

Major donor membership, friend or gift club schemes are a way of encouraging donors to increase the level of their support, through involvement with the cause and other major donors, and enable fundraisers to manage communication, events and donor recognition in a cost-effective manner.

If properly established and promoted, membership schemes may encourage the creation of a body of major donors who are giving at increased levels, are more aware of the cause and have a closer association with the mission, purpose aims and objectives of the organisation.

The structure of the scheme, for example the number of different levels of membership and the level of gift required to attain different levels, and whether a scheme is appropriate for an organisation's major donors, should be carefully considered before the scheme is introduced as the launch and maintenance of the scheme may involve committing a significant level of resource. In addition, making significant changes to the scheme, once launched, may be difficult.

7.2 Considerations

- The opinions and suggestions of existing donors and potential club members **SHOULD** be sought before a scheme is launched to make sure that the level of gift required, concept of the scheme and benefits offered are appropriate and will prove to be attractive to potential members.
- Undue pressure **OUGHT NOT** to be put on a donor to increase their support purely to become a member of the gift club.
- Donors **OUGHT** always to be given the option of opting out of the scheme.
- The level and frequency of gift that is required to become and remain a member of the club **SHOULD** be clear and transparent in all forms of publications and solicitations.
- It **SHOULD** be clear whether the level of donation required is net or gross of reclaimed tax. See key legal points on benefits to donors (8.4).
- If in doubt, appropriate advice **OUGHT** to be sought.

Membership of such a scheme may offer contact with the trustees or senior management of the organisation, opportunities to discuss issues affecting the organisation as well as access to more detailed information from the organisation but it must not confer control or direct influence on the organisation's decision making process.

7.3 Communication

- The donor **SHOULD** be given an option as to the level and format of communication, and the range of available benefits they wish to receive.
- The level of recognition and range of benefits offered by the organisation as part of the scheme **MUST** be honoured, or any changes agreed with the donor

8.0 Key Legal Points

8.1 Due Diligence/Know your Donor

Trustees **MUST** take reasonable steps to assess and manage risks to their charity's activities, beneficiaries, property, work and reputation. Money Laundering and adverse publicity about a donor are examples of how a charity could be exposed to criminal liability and suffer reputational damage.

- Fundraising organisations **SHOULD** have appropriate due diligence/'know your donor' policies in place to provide fundraisers with appropriate guidance when raising large sums.
- When creating such policies, fundraising organisations **SHOULD** consult the Charity Commissions compliance toolkit, which contains a number of resources to help charities "know your donor" to help put appropriate policies or processes in place – www.charitycommission.gov.uk

8.2 Professional Fundraising Rules in England and Wales and Scotland

The professional fundraising requirements in the Charities Act 1992 might apply to relationships with a major donor, depending primarily upon the nature of the fundraiser's relationship with the charity for which they are raising funds. In Scotland, similar provisions relating to agreements and statements are contained in sections 79 to 83 of Part II of the Charities and Trustee Investment (Scotland) Act 2005.

- Fundraising organisations **OUGHT** to satisfy themselves before commencing a relationship with a major donor whether or not the rules in the Acts and supporting regulations apply, and if so determine at what point and in what form the required statement should be made.
- Fundraising organisations **OUGHT** to also point out to a major donor if the method by which they propose to raise the funds for their donation would make them a commercial participator, as this will require them to have a written agreement with the charity.
- Fundraising organisations **MUST*** also comply with any other legal requirements relating to the form of dialogue being used (e.g. the requirement that formal documents soliciting funds state that the charity is registered).

For further information see the Charities Working with Business Code of Fundraising Practice, the Office for Civil Society (in England and Wales) and the Office of the Scottish Charity Regulator (in Scotland).

8.2 Revocable Gifts

The courts or other authorities can in certain circumstances set aside gifts made by vulnerable people or without due regard to the needs of others. When negotiating a major gift there are, therefore, certain circumstances that will require careful handling. For example:

- social services law authorises local authorities to seek repayment of some gifts made in advance of a person moving into local authority accommodation, if the gift was made with the intention of avoiding accommodation charges;
 - gifts by bankrupts or in anticipation of bankruptcy can be set aside by the trustee in bankruptcy;
 - gifts by those incapacitated at the time permanently (e.g. hearing impaired) or temporarily (e.g. drunk) can be set aside, broadly speaking where there is a lack of understanding on the part of the donor or unfair advantage is taken of the donor;
 - some donors may have limited or no capacity to make gifts out of property they control (e.g. trustees of private trusts, and attorneys); and
 - gifts in Wills can be set aside or varied by the courts if the deceased is found to have made insufficient provision for his family or dependants (see also the Code of Fundraising Practice, 'Legacy Fundraising').
- Fundraisers **OUGHT** to keep a record of what was known at the time if any of the above appears to be a possibility, and let the charity know of concerns.
 - Any further action **SHOULD** only be with the benefit of professional advice.

8.3 Confidentiality and Data Protection

A major donor may be sensitive about public disclosure of their support. They may also be sensitive about other aspects of their affairs entering the public domain. The law on confidentiality is complex. However, broadly speaking, the law will provide an action for a donor if fundraisers or the charity reveal information:

- that is inherently confidential, due either to the nature of the information (e.g. a trade secret) or the context in which it arises (e.g. doctor/patient discussions); or
 - that fundraisers and donors have agreed is confidential, on the basis of which the donor makes their gift.
- Fundraisers **SHOULD** as a matter of course raise the issue of confidentiality with a major donor at an early stage and agree what can or cannot be said about them and their involvement with the charity.

See also the Data Protection Code of Fundraising Practice for obligations and guidance (9.1)

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- When agreeing with a major donor what can or can't be disclosed, fundraisers **SHOULD** bear in mind:
 - certain charities are subject to the requirements of the Freedom of Information Act 2000;
 - the charity might have agreed to reveal certain information to others as a matter of course (e.g. other funders);
 - the charities SORP requires basic disclosure of the amounts of incoming resources in a charity's accounts.

Data Protection legislation does not make it clear how much research on donors can be held on file before it is necessary to disclose its existence. Given the small numbers normally involved, it does not appear that disclosure would be considered as requiring disproportionate effort from the data controller.

However, if the data being held is not sensitive and is freely available in the public domain, it would be difficult for a donor to suggest that processing by an organisation could be unfair.

8.4 Benefit Packages and Conditional Gifts

It is common for a charity to engage a major donor by offering them benefits (e.g. a place at a gala dinner) or recognition (e.g. to name a new building) or less material forms of engagement (e.g. trusteeship). Equally, a major donor might want to make their gift conditional so that, for example, the funds:

- are applied for certain purposes only; or
- go to another charity if the project fails; or
- be retained with only income being spent.

Alternatively, a major donor might wish to make a contribution other than by way of gift (e.g. a loan or other form of social investment).

- Fundraisers **OUGHT** to be clear in dealings with a major donor whether or not they are able to bind the charity to a particular arrangement.

Some conditions might be unacceptable to an organisation because of its status (e.g. it requires inappropriate political campaigning) or for operational or reputation reasons.

There may be serious legal consequences for fundraising organisations if terms are not recorded and approved. If there is any uncertainty, legal advice **SHOULD** be obtained.

8.5 Money Laundering

The Institute of a 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.

- There are various offences relating to money laundering with which fundraisers **MUST** comply - when dealing with donors.

The offences are contained in the Proceeds of Crime Act 2002 (POCA 2002), the Terrorism Act 2000 (TA 2000) and the Money Laundering Regulations 2007 (MLR 2007).

The offences in POCA 2002 apply to money or other property that someone has obtained through involvement in an activity that is criminal under UK law and that the offender knew or suspected to be such. TA 2000 applies to 'terrorist property'. This is property that is likely to be used for terrorist purposes or the proceeds of terrorist acts, such as a reward for committing the act.

It is an offence to receive, retain or convert money or property known or reasonably suspected to fall into these categories. If the charity operates in a 'regulated sector' (providing financial, business or legal services) you will be under a positive obligation to keep certain records and report suspicions to the relevant authorities. Further guidance can be obtained from the Serious Organised Crime Agency (SOCA) and is contained in Charity Commission Operational Guidance OG96. See also the Acceptance or Refusal of Donations Code of Fundraising Practice (see 9.1).

- When approached by a new donor wishing to make a large donation, fundraisers **OUGHT** to satisfy themselves as to the donor's identity and carry out a risk assessment.
- This **SHOULD** be carried out with sensitivity.

Since POCA 2002 applies to money or other property that has been obtained through conduct that is criminal under UK law, it will even apply to property obtained in ways that are legal in the donor's country but illegal here.

- Fundraisers **OUGHT** to bear this in mind if the donor is not from the UK.
- Fundraisers **OUGHT** to be wary of gifts that come with conditions attached.

For instance, if a donor offers a large donation on condition that it is used to support a project about which nothing is known, the donor may be attempting to launder money.

- Before accepting such a gift, fundraisers **MUST** be satisfied that the named project is a bona fide charitable endeavour, that its work is within the charity's objects and powers and that the trustees are happy for the charity to support the project.
- If, in the course of work outside the regulated sector, fundraisers suspect that the property to be donated is the proceeds of crime, the donations

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MUST NOT be accepted and fundraisers **OUGHT** to report the proposed donation to the appropriate authorities (usually the Police or SOCA).

- If fundraisers suspect that the property to be donated is terrorist property, then it **MUST** be reported to the police.
- If fundraising as part of business in the regulated sector, fundraisers **MUST** ensure compliance with the obligations in MLR 2003.

This includes obtaining proof of identity, keeping records of transactions, training personnel involved in the regulated business and establishing internal reporting procedures.

- If fundraisers are not clear about their obligations, or are suspicious of a potential donor they **OUGHT** to seek advice from the Charity Commission.

8.6 Tax issues

Most major donors will wish their giving to be as tax-effective as possible. An unconditional gift is likely to obtain for a donor relief from capital gains tax and inheritance tax. However, only certain assets when donated create a deduction for an individual donor from their taxable income and/or gains or profits. These are:

- cash gifts (either under the Gift Aid scheme or through Payroll Giving);
 - gifts of shares, securities and other easily realisable investments (see HM Revenue and Customs leaflet IR178 for details); and
 - gifts of land (including leasehold interests) in the UK.
- Fundraisers **SHOULD** be familiar with how these tax reliefs work, and the anti-avoidance provisions relevant to each relief.
 - Fundraisers **SHOULD** be careful when discussing these reliefs with potential donors to not give financial advice and tell donors to seek independent financial advice if necessary.

See: www.hmrc.gov.uk/charities/chapter_iii.htm for guidance on benefits to donors and members. For more information on charities and trading generally, see www.hmrc.gov.uk/charities/annex_iv.htm.

- When completing any major gift, organisations **MUST** ensure that the charity or the donor is provided with sufficient information to enable it to verify to an auditor or examiner and the tax authorities the nature of the receipt. In particular:
 - when the donation is a Gift Aid payment by an individual, organisations **MUST** obtain an appropriate declaration (the form of which will vary depending upon the method of giving used);

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- when the donation is a gift of land, donors **MUST** have a certificate of verification provided from the organisations; and
- if the donor is selling shares to benefit the organisation, organisations **OUGHT** to find out whether the donor intends to claim Gift Aid or income tax share relief, and record clearly that the donor is acting on behalf of the charity before the sale occurs.
- Fundraisers **OUGHT** to agree in advance with the charity any benefit package for or reciprocal arrangements with a donor, and **OUGHT NOT** commit a charity to such arrangements without the charity being given the opportunity to take any necessary tax advice.

If benefits are provided in return for a gift, HM Revenue and Customs might treat the donation as consideration for a standard-rated supply and so subject to VAT. This could oblige the charity to account for VAT on the gift and if the charity is not VAT registered lead to it having to register.

- Fundraisers **OUGHT** to check with the charity the VAT status of any benefits to donors and whether any exemptions apply (e.g. for fundraising events) before agreeing to provide the benefits and, if necessary, ensure the charity:
 - values the benefits provided; and
 - produces an appropriate VAT invoice to the donor.

See also the Charities Working with Business Code of Fundraising Practice (9.1).

8.7 Tax avoidance and evasion

- If a donor wishes to make their gift in a way that requires the charity to act in a way that is unusual or complicated, fundraisers **OUGHT** to give the charity the opportunity to seek legal advice to discover:
 - whether the arrangement is one that **MUST** be disclosed to the tax authorities; and
 - if so, whether it is the donor, the fundraiser or the charity that is under an obligation to make the disclosure.
- Similarly, if fundraisers create a tax-effective plan, with the intention of offering it to major donors, then legal advice **OUGHT** to be taken on whether or not the details of the scheme need to be disclosed to the tax authorities.
- If fundraisers suspect that a donation is part of a tax evasion scheme, they **OUGHT** to discuss the matter with a tax specialist immediately.

Accepting a donation when it is known that it is part of a tax evasion scheme is usually a criminal offence.

- It is also an offence to accept goods where there is reason to believe that VAT on the goods has been or will be evaded, so donations **MUST NOT** be accepted in those circumstances.

9.0 Appendices

9.1 Other relevant Codes of Fundraising Practice

Accountability and Transparency
Acceptance and Refusal of Donations
Charities working with Business
Data Protection
Direct Mail
Fundraising from Grant Making Trusts
Volunteer Fundraising

All codes can be found at: www.institute-of-fundraising.org.uk/codes

9.2 Useful contacts

Serious Organised Crime Agency
PO Box 8000
London
SE11 5EN
Phone: 0370 496 7622
Website: www.soca.gov.uk

9.3 Working Party

- Mide Akerewusi, Scope, Chair
- Anthony Clay, Consultant, Representative from the Standards Committee
- Corrie Darker, The Healing Foundation
- Glen Fendley, Consultant
- Sion Lutley, University of Bristol
- Karl Mitchell, The Woodland Trust
- Julian Smith, Farrer & Co.
- Laura Thomas, Institute of Fundraising

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

9.4 Legal Review

This Code was reviewed by the Institute of Fundraising's Legal Review Committee in **April 2011**. The Legal Review Committee is made up of representatives from leading charity law firms, who check the Codes are legally compliant.