

FUNDRAISING IN TURBULENT TIMES: LEGAL & REGULATORY CHANGES

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What we'll cover

- New Code of Fundraising Practice
 - What's changed and what's new?
- Data Use and Access Act (DUAA)
 - Changes to email marketing rules for charities

New Code of Fundraising Practice



- **Timeline**

- Autumn 2022 – call for information
- Autumn 2023 – first consultation
- 2024 – drafting new code
- Sept/Oct 2024 – second consultation
- April 2025 – launch of the new code
- **1 November 2025** – new code is implemented

Key changes



- **Streamlined** – 70% fewer rules, 45% fewer words
- **Removing detailed legal information** – e.g. sections on
 - Data protection
 - Licenses and permissions
 - Lotteries
- **Principles-based**
- **Some new rules**
 - Protecting fundraisers
 - Engaging with the Fundraising Regulator
 - Unstaffed collections

Principles-based approach



Old code

Age Restrictions

6.1.1 You must keep to any relevant age limits set by law when organising fundraising activities.

6.1.4 You must not give children under 16 overall responsibility for handling money or responsibility for counting collected money.

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

6.1.9 If a street collection qualifies as a public charitable collection, you must not allow children under 14 to take part, and must not allow children under 16 to carry out house-to-house collections.

6.1.10 You must not allow anyone under the age of 16 to carry out street collections or house-to-house collections. The exception to this is if a house-to-house collection is taking place across Northern Ireland and you are a youth organisation which the Department for Communities has approved for carrying out the collection under an exemption order, in which case you can have collectors aged 12 and over.

New code

Age Restrictions

5.1.1 You must ensure that fundraising activities are age appropriate.

For example, you must take reasonable steps to ensure that children under 16 are not given overall responsibility for handling or counting money.

Principles-based approach



Old code

Persuasion and intrusion

1.1.2 You must be polite to people at all times.

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.

8.4.1 You must not harass any person or ignore a request to leave or not to return.

New code

Reflect positively

1.1.2 You must take all reasonable steps to make sure your fundraising is carried out in a way that reflects positively on fundraising in general. This includes:

not unreasonably intruding on a person's privacy; not putting undue pressure on a person to donate; not using unreasonably persistent approaches; and accepting a request to end an interaction.

New code rules



Protecting fundraisers

Rule 2.1.2

You must take reasonable steps to protect fundraisers from harm and harassment while fundraising. This includes:

- having processes for fundraisers to report any issues that arise; and
- taking reasonable steps to deal with any issues that are reported.

New code rules



Engaging with the Fundraising Regulator

Rule 2.1.3

You must respond constructively and within an appropriate time to any enquiries you receive from us or the Scottish Fundraising Adjudication Panel relating to keeping to the code. You must also make sure your fundraising partners do the same.

New code rules

Unstaffed collections – information disclosures

Rule 7.5.1 You must make sure that, before making a donation, donors can see clear, accurate and up-to-date information about the collection. This includes:

- the name of the charitable institution receiving the donation; and
- the institution's registration information (charity number and/or company number) and their contact details.

If a collection is organised by a third-party collector, the information must also include:

- details of how any fundraising partners will be paid as part of the collection; and
- the name and contact details of the collector, if this is different from the charitable institution.

Rule 7.5.2 You must make sure donors can easily find the following information.

- Details of any processing fees involved in the donation
- Details of any secondary purpose which donations may be used for

New code rules

Unstaffed collections – written agreement

Rule 7.5.3

You must have a written agreement in place with the site manager or owner of the location where the collection is taking place. The agreement must include:

- details of who is responsible for collecting and processing donations;
- details of how and when collections will be made;
- information on how the collector or the site manager or owner can end the arrangement;
- details of how the site manager or owner must report any theft of donations or damage to the collection box or donation point.

Amended code rules



Old code

Payment of fundraisers

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.

New code

Payment of fundraisers

You must give appropriate consideration to the approach you choose for paying fundraisers and whether this fits the values of your charitable institution.

Code section 6: Fundraising partnerships

- Market inquiry report: subcontracting in face-to-face fundraising

Due diligence

- Rule 6.1.1 You must carry out appropriate checks on a third-party fundraiser before entering into an agreement with them. This is to make sure you are reasonably satisfied that they are able to do what you expect them to do and that the relationship is unlikely to damage your reputation.

Contracts and agreements

- Rule 6.2.1 You must have an appropriate written agreement in place with any third-party fundraiser you work with (unless they are a volunteer, in which case you may decide not to put a written agreement in place).
- Rule 6.2.2 You must make sure that this agreement provides adequate protection and rights for your charitable institution, taking into account the activity to be carried out under the agreement. In particular, you must be able to end the agreement in a way that allows you to protect your charitable institution's reputation, if this becomes necessary.

Code section 6: Fundraising partnerships

Contracts and agreements

- Rule 6.2.3 You must make sure that this agreement includes appropriate terms about:
 - the activities to be carried out by the third-party fundraiser (and if relevant, by you);
 - any timescales that apply;
 - if the third-party fundraiser will be paid by you, how you will calculate the payment;
 - if fundraising materials will be developed or shared, what copyrights you have over these materials;
 - handling confidential information;
 - how the third-party fundraiser is expected to behave, including keeping to this code;
 - complaints procedures and working with us; and
 - whether the third-party fundraiser is allowed to subcontract fundraising activities to others and, if so, what standards are in place for subcontracted services.

Code section 6: Fundraising partnerships

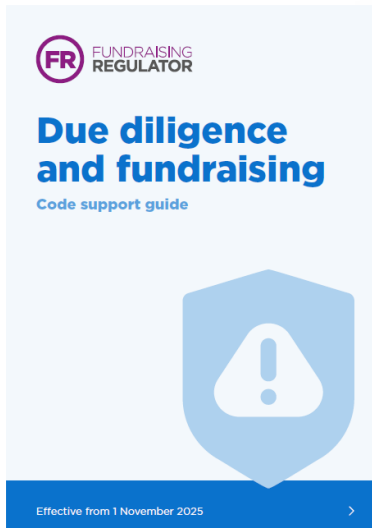
Monitoring

- Rule 6.3.1 You must make all reasonable efforts to make sure that any third-party fundraisers you work with keep to the code.
- Rule 6.3.2 You must make all reasonable efforts to monitor whether third-party fundraisers are keeping to the agreement you have with them.
- Guidance

Supporting documents



- Consultation summary
- **Table of changes** – mapping old rules to new
- Code support guides



Further guidance



- Guidance to be published in coming months
 - Vulnerable circumstances
 - Cashless donations
 - Online gaming
 - Social media
 - Events

Next steps



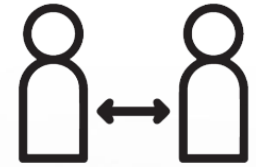
- Read the new Code and supporting documents
- Inform – trustees and key stakeholders
- Update processes and policies
- Training on new Code for relevant staff and suppliers
- Review contracts with partners, agencies and suppliers
- Consider decision making and recording

Charities and the soft opt-in



- **Charities** to be able to use soft opt-in to send emails
 - as defined in s.1(1) Charities Act 2011
 - as defined in s.1(1) Charities Act (Northern Ireland) 2008
 - a body entered in the Scottish Charity Register
- Will be able to use soft opt-in for email direct marketing that's **solely for the purpose of furthering the charity's charitable purpose**
 - **Charitable purpose** has the meaning given to it in the relevant Act

Charities and the soft opt-in



Requirements

- The contact details were **obtained in the course of** the recipient:
 - **expressing an interest** in one or more of the charitable purposes; or
 - **offering or providing support** to further one or more of those purposes**and**
- the recipient has been given a simple, free of charge **means of opting-out** at the time their details were collected and in each subsequent email



Soft opt-in changes: preparation

- Systems ready for **new** donors and supporters
 - When will your charity use it?
 - What supporter/donor actions will be triggered?
- Legitimate interests assessment
- Update **privacy notices** and **opt-out wording**

Foreign Influence Registration Scheme

- **Who's affected?** UK-based organisations with arrangements involving a foreign power
- **Why?** To increase transparency around foreign-directed actions in the UK
- **When?** From 1 July 2025
- **Two tiers:**
 - Political Influence Tier – e.g. influencing government decisions
 - Enhanced Tier – currently only Russia and Iran
- **Fundraising implications?**
 - General donations or grants – OK
 - Conditional funding tied to political or specific influence – may trigger registration
- No blanket charity exemption
- Trustees are legally responsible
- **Registration deadlines:**
 - 28 days (Political Tier)
 - 10 days before activity (Enhanced Tier)
- Criminal offences for non-compliance
- **Transition period:** 1 July – 30 September 2025




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