

The Institute of Fundraising's Codes of Fundraising Practice

The Institute of Fundraising's complete set of Codes of Fundraising Practice were restructured in June 2002 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**' indicates a requirement that is mandatory for both individual and organisational members of the Institute and '**should**' indicates a course of action that is recommended as best practice.

This Code of Fundraising Practice is intended to address fundraising activity throughout the UK. The Institute recognises the separate jurisdictions of Scotland, Northern Ireland and England and Wales and differences in the law have been highlighted where they occur. The Institute of Fundraising expects fundraisers to adhere to the most rigorous interpretation of the law applicable to an activity, whichever jurisdiction that activity derives from.

Users should be aware that this Code states the law as it stood at December 2004 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.

1.0 Introduction

1.1 Introduction

Volunteer fundraising is the most prevalent form of fundraising in the UK. The 1997 National Survey of Volunteering estimated that two thirds of the 22 million people who volunteer every year do so as fundraisers. As such, volunteer led fundraising activity is the most frequent way in which the majority of the public engage with and encounter fundraising practice, for example, through attending events, coffee mornings or meeting house to house collectors.

Good practice in volunteer management is therefore especially important in fundraising. Through having a good volunteer fundraising experience, people gain an insight into fundraising, build support for charities from both themselves and others, and engage in the kinds of activity that are the essence of the voluntary and community sector.

Among volunteer fundraisers are a range of high profile individuals. This Code of Practice therefore applies to organisations with patrons, trustees or celebrities who are involved in fundraising as volunteers. Additional issues relating to celebrities are given particular attention in this Code of Practice under section 2.7.

Whilst the Code refers throughout to the must, ought and should requirements placed on organisations who are Institute of Fundraising members, it should be noted that these are also expected to be met by individual members of the Institute of Fundraising.

1.1 About this Code

This Code first defines volunteer fundraising and the two types of volunteer fundraising; 'on behalf of' and 'in aid of' volunteers.

The code then gives guidance on the law and best practice in relation to all volunteers; and then gives specific guidance on the law and best practice for 'on behalf of' volunteer; 'in aid of volunteers'. Celebrity volunteers; volunteers who have previously not made themselves known to the organisation; key legal points and, finally, useful sources of information.

2.0 Preparation and procedures

2.1 Defining Volunteer Fundraising

For the purposes of this Code of Practice, a volunteer fundraiser is someone who, without payment or other material benefit, raises money or engages in a fundraising activity for a charity or other philanthropic or benevolent institution. Note, the reimbursement of out of pocket expenses incurred by a volunteer & supported by a receipt is not a material benefit.

2.1.2 'On behalf of' and 'in aid of' volunteers

For the purposes of this Code, volunteer fundraisers are further split, into two categories.

- Volunteer fundraisers sometimes act with special authority to represent the organisation for which they are fundraising and sometimes they act entirely on their own initiative and with no special authority to represent the organisation. In this Code of Practice, those acting with authority to represent the organisation are described as acting 'on behalf of' the organisation; other volunteer fundraisers are described as acting 'in aid of' the organisation.

It will not always be easy to distinguish between the two. However, the difference has important legal consequences. The differences between the two relationships and the legal consequences are considered further in section 3.0 of this Code.

2.1.3 Organisational definition of volunteer fundraising

The trustees and senior management of organisations **ought** to define for themselves how their range of volunteer fundraising activities, including those undertaken by groups, high profile individuals such as patrons, trustees and celebrities, fit within the definitions laid out in this section of the Code.

2.1.4 When is a 'volunteer' not a volunteer?

Some "volunteers" will actually be engaged in an exercise of raising their profile and/or attracting customers by associating themselves or their brand with the organisation's brand (i.e. receiving a material benefit). An example may be a band putting on a concert with all profits going to the organisation. Such people are not defined as volunteers for the purpose of this Code of Practice; the Code of Practice "Charities Working with Business" will usually apply to them.

In some cases, it may not be clear whether there is a material benefit. Where there is doubt, this Code of Practice should be treated as applicable.

2.2 Relation to other Codes of Practice

Volunteer fundraisers are involved in a wide range of fundraising activity and so there is common ground between this Code and others published by the Institute of Fundraising including:

- Charities Working with Business
- Charity Challenge Events
- Fundraising in Schools
- Handling of Cash Donations
- House to House Collections
- Legacy Fundraising
- Management of Static Collection Boxes
- Outdoor Fundraising Events in the UK
- Raffles and Lotteries.

In almost all cases the common ground includes the need for the appropriate written permission or local authority permit, the age of collectors, risk assessment and keeping the cash raised in a secure place before banking.

Organisations working with volunteer fundraisers **ought** to familiarise themselves with the requirements they **must**, **ought** and **should** follow as laid down in other Institute of Fundraising Codes of Practice which relate to the specific activities their volunteers are engaged in.

2.3 Issues relating to all Volunteers

- Organisations **ought** to have a written volunteer policy that covers volunteer fundraisers. This policy **ought** to cover issues such as:
 - Reasons for involving volunteers in fundraising
 - Definition of a volunteer fundraiser
 - Volunteer recruitment
 - Equal opportunities and diversity
 - Induction and training
 - Support and supervision, including regular review meetings
 - Reimbursement of out-of-pocket expenses
 - The transfer of funds raised from volunteers to the organisation they have fundraised for e.g. how quickly should the money be handed over and recognition of receipt
 - Insurance, including arrangements for cover for children & young people and vulnerable adults
 - Health and safety
 - Risk assessment
 - Confidentiality
 - Handling conflicts of interest when paid fundraising staff volunteer to fundraise for another organisation
- Procedures for dealing with complaints made by volunteers and problem behaviour by volunteers, including dealing with allegations of theft and terminating the relationship between volunteers and an organisation.
- Organisations **should** have a registration scheme for volunteer fundraisers so that their personal and contact details can be stored.
- Organisations **must** comply with the Data Protection Act 1998 and **should** have a confidentiality policy in relation to personal data held on volunteer fundraisers.
- Current employment law contains no clear legal definition of a volunteer and so leaves many grey areas where volunteers are concerned. Organisations therefore **ought** not to discriminate on grounds of race, sex, sexual orientation, religion, age or disability when recruiting and managing volunteer fundraisers unless there are sound ethical reasons for doing so.
- Organisations **ought** to have clear policies and procedures in place to protect children and vulnerable adults involved in volunteer fundraising, and **should** ensure that everyone is aware of them.
- Organisations **ought** to provide volunteer fundraisers with written information that clarifies the terms and boundaries of the relationship and also covers other requirements such as use of the organisation's logo and brand. In some cases this relationship may be with groups of volunteer fundraisers which are recognised as separate, independent groups.
- Organisations **ought** to offer training appropriate to the relationship with the volunteer fundraiser and have clear guidelines on the handling of money, particularly cash.
- Organisations **ought** to take action if it becomes apparent that volunteer fundraisers are behaving inappropriately. For example, if theft or fraud is taking place, organisations **ought** to terminate the relationship with the volunteer fundraisers and inform the police.

- Where paid fundraisers act in a voluntary capacity for another organisation, they **should** consider whether a conflict of interest could arise and, if so, they **should** discuss this with their employer prior to their involvement.

2.4 Volunteers acting on behalf of an organisation

Organisations **should** be clear about the place of their volunteers within the organisational structure. Organisations **should** likewise ensure that everyone in the organisation is aware of this.

Organisations **ought** to provide appropriate volunteer management support for their volunteers.

- Organisations **ought** to arrange for volunteer fundraisers to be insured and ensure that the organisation itself is covered in the event of an action against a volunteer or an action brought against the organisation by a volunteer. In particular, organisations **ought** ensure that, at a minimum, its public liability and employer's cover is sufficient. It **should** provide clear guidance to volunteer fundraisers on compliance with the insurance policy and how they are covered under insurance cover. Such guidance **should** cover the use of volunteer fundraisers' own vehicles whilst volunteering.
- Organisations **ought** to provide volunteer fundraisers with clear guidance on health and safety, particularly in relation to public events and fundraising that involves children, young people and/or other vulnerable people.
- Organisations **ought** to have written role descriptions for volunteer fundraisers that establish the terms and boundaries of the relationship.
- Organisations **ought** to recruit individuals competent for the role to be undertaken. This process **should** include targeted recruitment aimed at attracting people with the right skills and experience, use of a registration form and interview, and, where appropriate, the use of volunteering brokerage agencies such as Volunteer Centres.

- Organisations **ought** to check the suitability and credentials of volunteer fundraisers to act as responsible people on an organisation's behalf, for example, by taking up references and carrying out other background checks as appropriate.
- Organisations **should** provide training and support as may be needed to enable volunteer fundraisers to effectively carry out their role.
- Organisations **ought** to give guidance on compliance with fundraising law, as applicable.

2.5 Volunteers acting in aid of an organisation

- Organisations **ought** to state clearly that the relationship between the organisation and the volunteer fundraisers is an 'in aid of' relationship.
- Organisations **ought** to explain the limits of insurance cover to volunteer fundraisers so that such individuals are aware of when cover is available and when it is not.
- Organisations **ought** to consider the fit between the activity proposed and the organisation concerned and **ought** to agree with the volunteer fundraisers what support will be provided in light of this fit.
- Organisations **should** consider that the more support they offer the more likely the relationship becomes an 'on behalf of' one. An 'on behalf of' relationship offers volunteer fundraisers more support and requires organisations to provide this. An 'in aid of' relationship implies volunteer fundraisers have more control over the event but can reduce the control that organisations have on what volunteer fundraisers do in their name. Organisations **ought** to take advice on this as appropriate (see section 3.0 of this Code for further guidance).
- Organisations **should** take swift action to prevent inappropriate or improper fundraising by volunteer fundraisers claiming to act 'in aid of' the organisation.

3.0 Key Legal Points

2.6 Receipt of donations from volunteers previously unknown to the organisation

In such situations organisations **ought** to refer to and follow the Code of Practice on the Acceptance and Refusal of Donations.

2.7 Issues to consider when volunteers are celebrities

- Organisations **ought** to have a written celebrity involvement policy, which includes involvement of celebrities as volunteers and in a paid capacity.
- Organisations **ought** to have a written agreement with celebrity supporters, which might take the form of a letter of confirmation from the charity to the celebrity
- Organisations **ought** to research celebrities and consider whether any aspect of the celebrity's reputation might prove harmful to the organisation's reputation before making any approach.
- Organisations **should** consider the appropriateness of the celebrity for the fundraising activity proposed and issues relating to the desired length and depth of the relationship with the celebrity.
- Organisations **should** clarify and document the benefits and main purpose of involving celebrities in their fundraising on a case by case basis.
- Organisations **should** clarify the expectations of the charity and the celebrity including levels of support and PR opportunities.
- Organisations **ought** to provide the celebrity with a full briefing on the organisation and the activity with which they will be involved.
- Organisations **should** consider the risk to a fundraising event involving celebrities as volunteers should those celebrities not turn up.

3.1 General Notes

This section sets out general commentary on key legal points. It does not cover all legal matters relating to volunteer fundraising and specific legal advice should be obtained for particular circumstances. If in doubt over any such issues, organisations should seek legal advice.

3.2 Distinguishing between the 'on behalf of' and 'in aid of' relationships (agency and non-agency relationship)

As mentioned in section 2.0, there is a distinction between someone acting 'on behalf of' an organisation and someone acting on his or her own behalf but 'in aid of' that organisation. If an organisation appoints someone to act on its behalf then that person is its agent and the organisation will be responsible for his or her acts when those acts are within the scope of his or her authority. For this reason, it is important to be very clear about what a volunteer may and may not do in the name of the organisation.

A volunteer acting 'in aid of' an organisation **should** have no authority to act in its name. It **should** be clear that the volunteer is simply raising funds for the organisation but acting in his or her own capacity. An organisation will not then generally be responsible for the volunteer's acts. This situation can change if the organisation acts in such a way that it is reasonable for a third party dealing with the volunteer to believe that the volunteer has authority to act on the organisation's behalf.

It is not always easy to distinguish the 'on behalf of' (agency) from the 'in aid of' (non-agency) relationship in particular situations. At each end of scale, it is clear enough but in between there are grey areas.

For example, a branch committee member (in the case of branches which are not themselves separate legal entities) will have actual or ostensible authority to do certain things in the name of the organisation and so will be its agent in relation to those things. On the other hand, someone who, without authority from the organisation, runs a fundraising event in aid of it will not be an agent. However, what if the organisation has given permission for its logo to be used and has told the volunteer fundraiser that it will pay the venue hire costs? If the volunteer fundraiser then books the venue 'for the organisation', did he or she have authority to do that and was it reasonable for the venue hirer to rely on that authority? If so, an 'on behalf of' (agency) relationship has been created.

Shades of grey are unhelpful and confusing. Organisations **should** avoid them by being clear about the scope of a volunteer fundraiser's authority.

If an organisation wants an "in aid of relationship" to exist, make it clear that the volunteer may not take any action in the name of the organisation or commit the organisation to doing anything but may say that he or she is raising money in aid of that organisation. A right to use the organisation's logo might lead some people to conclude that a volunteer acts on behalf of the organisation. If the logo of the organisation is being used then try to agree a statement which must accompany the use of the logo such as "[name of volunteer]: raising funds in aid of [name of organisation]".

3.3 Tax and VAT

Certain fundraising events are exempt from income and corporation tax and VAT if organised by a charity or other philanthropic or benevolent institution or its wholly owned subsidiary company. If the event is organised by volunteer fundraisers acting 'on behalf of' an organisation then it can fall within the exemption. If, on the other hand, it is organised by volunteer fundraisers acting 'in aid of' an organisation then the income may be subject to VAT and the profits may be subject to income tax in the hands of the volunteer fundraiser. Contact the Inland Revenue office for guidance.

For charities, remember to ensure that gift aid is used to the full to recover basic rate tax on donations. Detailed advice on the administration of gift aid can be found on the Inland Revenue's website, <http://www.inlandrevenue.gov.uk/charities>

3.4 Intellectual property

Intellectual property rights (such as copyright) created by a volunteer fundraiser will belong to the volunteer fundraiser. If the volunteer fundraiser will be creating valuable intellectual property rights, he or she **should** be asked to execute an assignment of these rights to the organisation.

3.5 Trusteeship of funds raised

A volunteer who raises money from others for an organisation is a trustee of the funds raised and **must** ensure that the organisation receives all that money. That trust can and **should** be enforced. Organisations **should** ensure that there is a proper arrangement for money to be transferred to the organisation as soon as practicable; the sooner the money is transferred, the safer it is. Cheques **should** be made payable to the organisation (this will assist in reclaiming gift aid). If money is collected over a long period, consider requiring it to be transferred at reasonable intervals.

The organisation **should** have a system in place for following up funds raised by volunteers. Decisions not to follow up funds raised can be justified on the grounds of cost-effectiveness, but bear in mind the possible impact on the charity's reputation.

3.6 Volunteer or Employee?

Volunteers can sometimes be or become employees with employment rights and there have been cases in employment tribunals where people thought to be volunteers have claimed such rights. The characteristics of an employment relationship which give rise to such rights are:

- A degree of control over how and when worker works
- An intention to create legal rights
- Binding commitments to provide and do work
- Payment.

Any written agreements with volunteers **should** be couched in terms of hopes and expectations about the relationship, not in terms of binding obligations to provide or do work.

It is important not to make payments, such as honoraria or fixed expenses allowances if one wishes to avoid turning a volunteer relationship into an employment one. The reimbursement of out of pocket expenses actually incurred does not, however, affect the relationship. Organisations **should** inform volunteers that volunteering will not affect entitlement to benefits as long as the volunteer only gets a refund of genuine out of pocket expenses.

Note also that if an employment relationship exists, the employer is liable for national insurance contributions and PAYE on payments made, the national minimum wage might apply, and other employment rights will come into force e.g. annual leave, sick leave, maternity leave.

3.7 Commercial participators and professional fundraisers

The distinctions between commercial participators and professional fundraisers are dealt with in more detail in the Code of Practice, 'Charities working with Business'.

A commercial participator is someone who is in business and in the course of that business engages in a promotional venture, representing that benefits will accrue to the organisation. Such people are not volunteers for the purposes of this Code of Practice.

Professional fundraisers include people who receive more than £5 a day or £500 per year (or benefits worth these sums) raising money for charitable, philanthropic or benevolent institutions. The payment of an honorarium or fixed expenses allowance (paid irrespective of actual expenditure) might turn a 'volunteer' into a professional fundraiser. Professional fundraisers are required by law to have a written agreement with the institution concerned and required to make a statement explaining his or her remuneration whenever seeking funds.

4.0 Appendices

4.1 Useful References

- www.thecompact.org.uk/
The Compact Code of Good Practice on Volunteering
- <http://www.volunteering.org.uk>
Volunteering England's free online resources including free guides on writing volunteer policies and volunteer agreements
- www.volunteering-ni.org
Volunteer Development Agency for Northern Ireland
- www.volunteering-wales.net
Volunteering Wales
- www.vds.org.uk
Volunteer Development Scotland
- www.voluntarysectorskills.org.uk
Information on voluntary sector skill, including National Occupational Standards for Managing Volunteers

4.2 Working party members

- Eileen Hammond, Hammond Associates, (member of Institute of Fundraising Standards Committee)
- Rob Jackson, Volunteering Development Manager, Royal National Institute of the Blind, Chair of working party
- Philip Kirkpatrick, Bates, Wells and Braithwaite, Solicitor
- Chris Penberthy, Director of Capacity Building and Infrastructure Development, Volunteering England
- Philippa Spackman, Associations' Liaison Co-ordinator, The National Trust
- Allegra Scott, Regional Fundraising Development Manager, RSPCA
- Laura Thomas, Policy and Standards Officer, Institute of Fundraising

4.3 Example of Guidance for 'in Aid Of' Volunteers

This document, which is available on the Institute's website, is an example of information that might be included in a letter to a volunteer 'in aid of' fundraiser. Organisations may use this document in full or may adapt it to suit the requirements of their organisation.