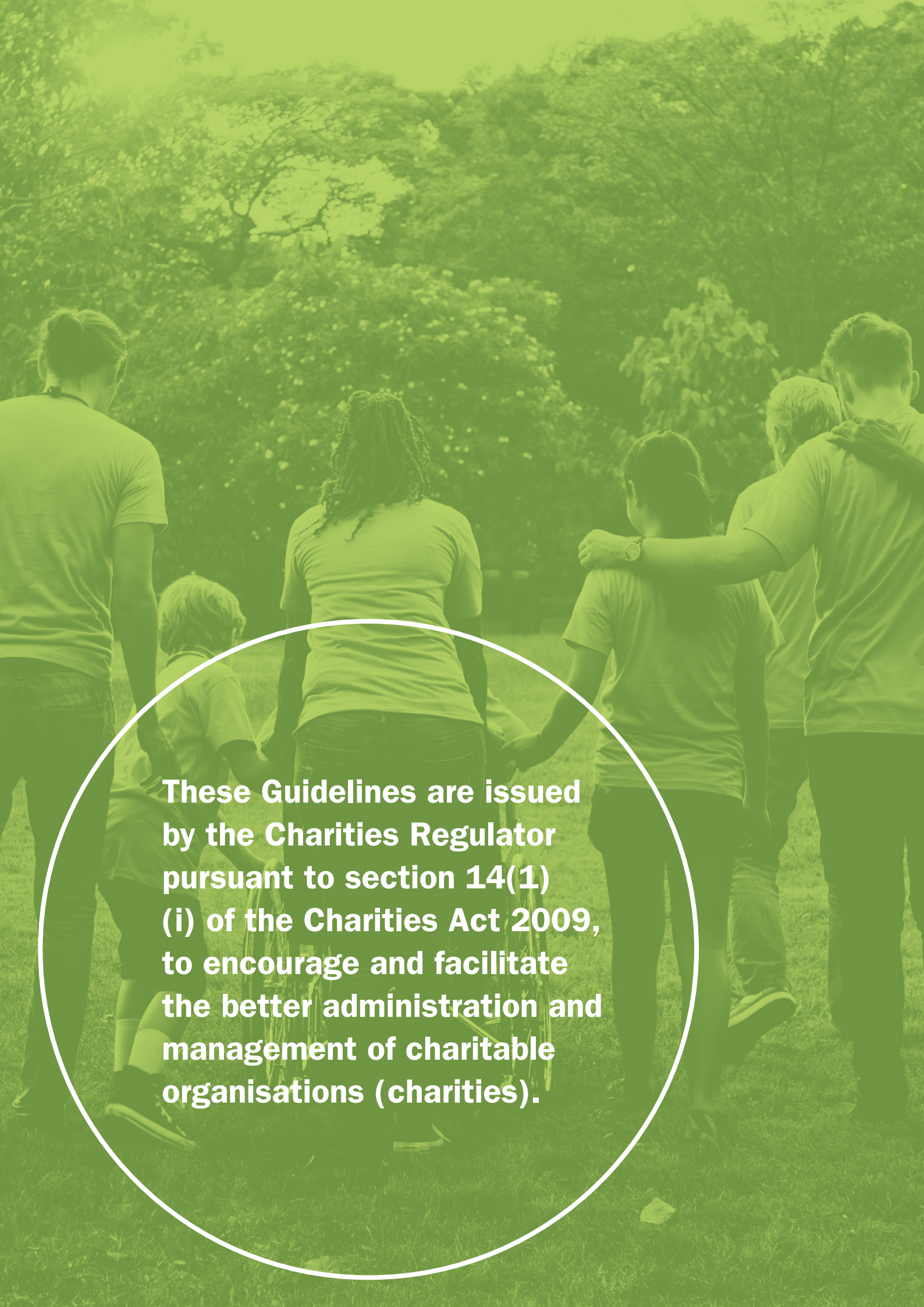
An Rialálaí Carthanas
Charities Regulator

Guidelines for Charitable Organisations on Fundraising from the Public



These Guidelines are issued by the Charities Regulator pursuant to section 14(1)(i) of the Charities Act 2009, to encourage and facilitate the better administration and management of charitable organisations (charities).

About the Charities Regulator

The Charities Regulator was established in October 2014 as Ireland's statutory independent authority for the regulation and protection of charitable trusts and organisations (charities). Under the Charities Act 2009, the Charities Regulator's general functions are to:

- **increase public trust and confidence in the management and administration of charitable trusts and charitable organisations;**
- **promote compliance by charity trustees with their duties in the control and management of charitable trusts and charitable organisations;**
- **promote the effective use of the property of charitable trusts or charitable organisations;**
- **ensure the accountability of charitable organisations to donors and beneficiaries of charitable gifts, and the public;**
- **promote understanding of the requirement that charitable purposes confer a public benefit;**
- **establish and maintain a register of charitable organisations;**
- **ensure and monitor compliance by charitable organisations with this Act;**
- **carry out investigations in accordance with this Act;**
- **encourage and facilitate the better administration and management of charitable organisations by the provision of information or advice, including in particular by way of issuing (or, as it considers appropriate, approving) guidelines, codes of conduct, and model constitutional documents;**
- **carry on such activities or publish such information (including statistical information) concerning charitable organisations and charitable trusts as it considers appropriate;**
- **provide information (including statistical information) or advice, or make proposals, to the Minister on matters relating to the functions of the Regulator.**

Our Mission is:

To regulate the charity sector in the public interest so as to ensure compliance with the law and support best practice in the governance, management and administration of charities.

Our Vision is:

A vibrant trusted charity sector that is valued for the public benefit it provides.

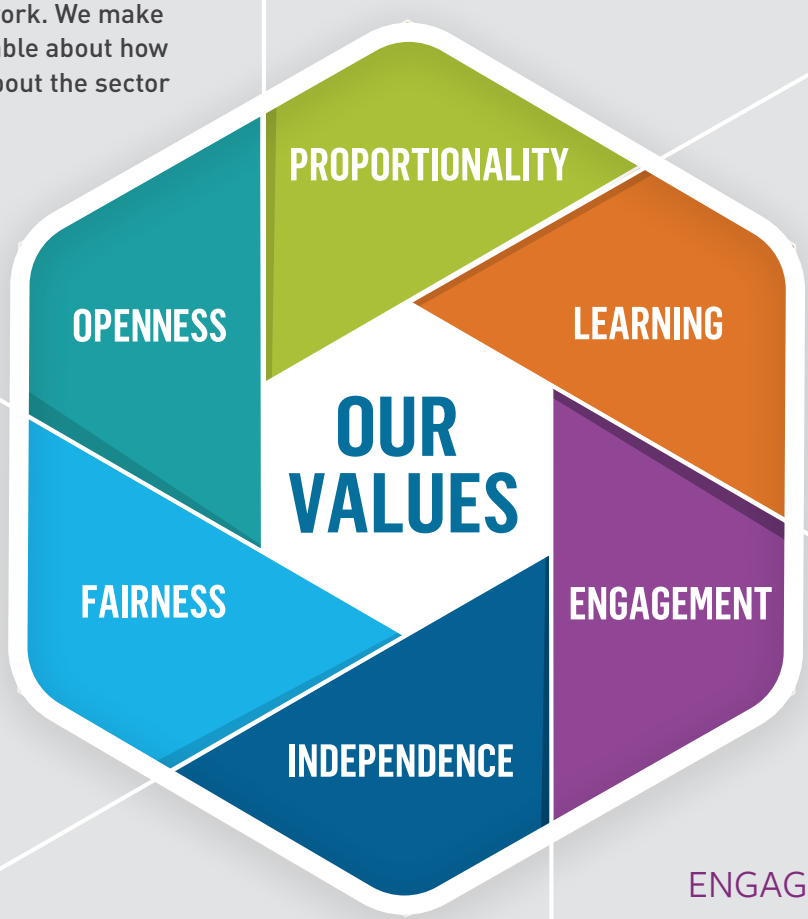
Our Values are:

OPENNESS

We take an open and transparent approach to our work. We make information available about how we operate and about the sector we regulate.

PROPORTIONALITY

We recognise the diversity of size and capacity among the organisations which we regulate. We regulate in a proportionate way and target the resources available to us at areas of greatest risk.



LEARNING

Our actions and decisions are informed by evidence and embedded in a learning culture. We continually seek ways to improve how we do our work and strive to be authoritative in our field.

FAIRNESS

We operate fairly and impartially. We apply our procedures consistently and give reasons for our actions and decisions.

ENGAGEMENT

We communicate with and listen to our stakeholders. We seek to anticipate and address regulatory issues of concern to them.

INDEPENDENCE

We take decisions independently and in the public interest. We stand over our actions and decisions and take responsibility for them.

Contents

Section 1	Background and Introduction	5
Section 2	Who should read these Guidelines?	6
Section 3	Principles	7
Section 4	Donors and Donations	8
Section 5	Responsibilities of Charity Trustees	10
Section 6	Responsibilities of Management	11
Section 7	Responsibilities of Fundraisers	12
Section 8	Data Protection	13
Section 9	Financial Transparency & Accountability	15
Section 10	Monitoring	16
Appendix	Useful Reference Points	17

1 Background and Introduction

Fundraising from the public is an essential and valuable source of revenue for many charities.

However, it is critical that charities carry out all fundraising from the public in an open, transparent, honest, respectful and accountable manner. Fundraising should always be underpinned by an appropriate legal framework. Fundraising activities which operate on the basis of perceived loopholes in the law risk damaging the reputation of the charity and the sector more generally.

The basis for these Guidelines is the 2008 *Statement of Guiding Principles on Charitable Fundraising*. These Guidelines have benefitted from the input of a Consultative Panel on Charitable Fundraising which was set up by the Charities Regulator in 2016 at the request of the Minister for Justice and Equality. They have also been informed by evidence-based research and a public consultation which took place in Autumn 2016.

The Charities Regulator expects that any charities that fundraise will do so in a way which protects the reputations of their charity and encourages public trust and confidence in their charity and in charities more generally. This includes following the law and recognised standards, protecting the charity from undue risk and showing respect for beneficiaries, donors and the public. These Guidelines are intended to assist trustees of a charity to run the charity effectively, avoid difficulties in respect of fundraising activities and comply with their legal duties.

Charities vary in terms of their size and activities. Trustees should consider and decide how best to apply these Guidelines to their charity's particular circumstances. The Charities Regulator requires the trustees of each registered Irish charity to be able to explain and justify their approach to fundraising from the public, particularly if they decide not to follow good practice as set out in these Guidelines.

2 Who should read these Guidelines?

Charity trustees have overall responsibility and accountability for their charity and this includes fundraising activities of the charity.

They have a key role to play in setting their charity's approach to raising funds and ensuring that it is implemented in practice. The Charities Regulator recognises the commitment required of trustees and the challenges they can face in getting fundraising right. These Guidelines are devised to support them in discharging their responsibilities. They should be read in conjunction with our Guidelines on duties of charity trustees and internal financial controls.

Trustees should ensure that all key people within their charity who are involved in fundraising implement the approaches and practices set out in these Guidelines.

These Guidelines apply to all types of fundraising from the public for the benefit of charities and their beneficiaries. It applies whether or not:

- fundraising from the public is a small or major part of the charity's approach to raising money, or;
- fundraising is carried out by the charity, by a subsidiary trading company on behalf of the charity, by another person or organisation on the charity's behalf or by a person or organisation who uses the charity's name in advertising.

Trustees should ensure that all key people within their charity who are involved in fundraising implement the approaches and practices set out in these Guidelines. These include senior management, staff, company directors, volunteers and any professional fundraisers.

Donors, potential donors and members of the public can also use the Guidelines to ensure they are educated and informed prior to making a donation.

'Must' and **'should'**: what we mean

In these Guidelines -

'must' means that something is a legal or regulatory requirement or a duty that trustees must comply with, and

'should' means that something is good practice and the Charities Regulator expects trustees to follow and implement it within their charity.

3 Principles

Under the Charities Act 2009, it is a function of the Charities Regulator to ensure the accountability of each charity to its donors, beneficiaries and the public.

To this end, the charity trustees should ensure that their charity has a Donor's Charter, which should include the commitments set out below and should be publicly available. The charity may expand on these commitments in accordance with its mission and purpose as appropriate.

Respect

- All fundraising will respect the rights and dignity of donors, beneficiaries and the public.
- Fundraising activities will not be unreasonably persistent, intrusive or place undue pressure on people to donate. Should someone not wish to donate, or wish to cease making a donation, that decision will be respected.
- Beneficiaries will not be presented in a disrespectful way in promotional activities and, where possible and appropriate, clients and beneficiaries will have an input into the promotional strategies of the charity.

Honesty and Integrity

- Fundraising will occur in an honest and truthful manner.
- Fundraisers will act with integrity and not misrepresent the charity, its need for funds or how they will be applied.
- Questions about fundraising activities and fundraising costs will be answered honestly and in a timely manner.
- Information about the charity's charitable purpose and activities will be made freely available.
- Charitable donations and gifts will be used for the purposes for which they were donated.

Transparency and Accountability

- The charity will take responsibility for its actions and will be capable of explaining, clarifying and justifying those actions.
- The charity's trustees and management will explain and account to donors and the public for the charity's actions.
- The charity will operate in an open, frank and honest way and will ensure that transactions, operations, information and communications are easily understood by donors and the public alike.
- The charity will clearly identify to donors and the public the cause for which the fundraising is occurring and how donations will and are being used.
- The charity will provide ways whereby those interested can easily contact the charity.
- The charity will have a procedure in place to address complaints.

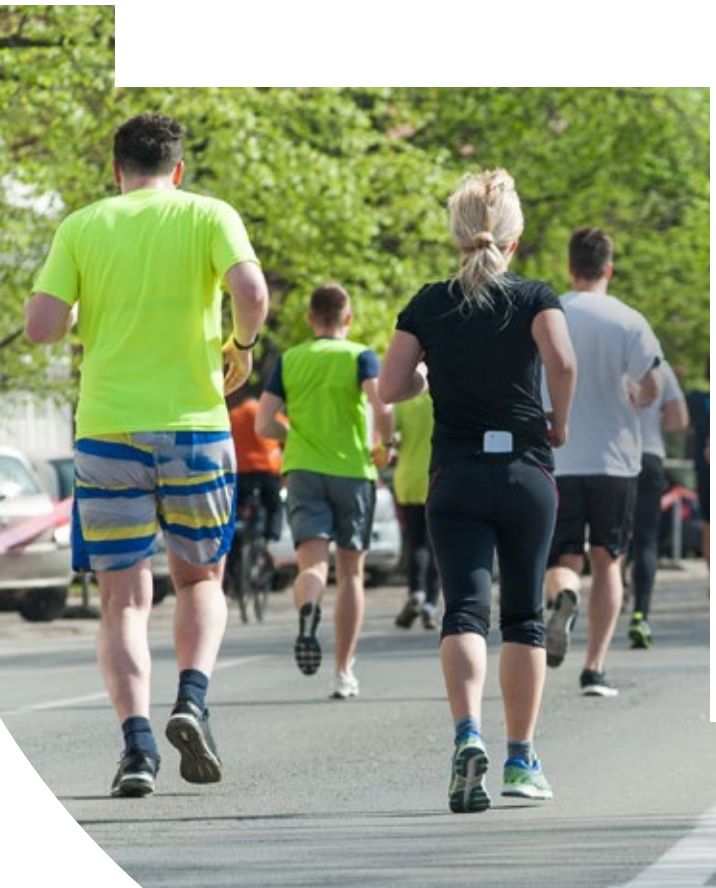
4 Donors and Donations

In addition to the core principles detailed in section 3, the trustees of a charity should ensure that appropriate policies, procedures and safeguards in respect of the matters set out below are implemented by the charity in all of its dealings with donors.

Donors

Trustees of a charity should make sure that the charity takes all reasonable steps to treat donors fairly, enabling donors to make informed decisions about any donations. This includes taking into account the needs of any potential donor who may be vulnerable or who, due to his or her circumstances, may require additional care and support to make an informed decision.

Trustees of a charity should ensure that the charity and their fundraisers do not exploit the credulity, lack of knowledge, apparent need for care and support or vulnerable circumstances of any donor at any point in time. If there are reasonable grounds for believing that an individual lacks capacity to make an informed decision to donate, a donation should not be taken. A donation given by someone who lacked capacity at the time of donating should be returned.



Donations

Trustees of a charity must ensure that:

- the charity accurately describes the purpose of any fundraising;
- donations received are used to further the charity's charitable purpose;
- where donations are made for a specific purpose, the donor's request is honoured.

Trustees should ensure that:

- fundraisers carry clearly visible identification, which includes the name of the individual who is fundraising, the charity's name, logo, contact details and Registered Irish Charity Number, also known as an "RCN";
- donors are informed of the status and authority of those soliciting charitable donations on behalf of the charity so that donors are aware whether fundraisers are employees of the charity, third party agents or volunteers;
- where the charity invites the public to donate to a specific cause, that the charity has a plan in place for handling any shortfall or excess and is able to inform donors about this;
- where all of the proceeds of an event are not going to the cause/charity this should be made clear to donors;
- if it is not intended that collected items such as clothing or other articles be sent directly to the clients or beneficiaries of the charity but, for example, are to be sold or recycled instead, this should be made clear to donors.

Third party fundraisers

Trustees should be assured that any donations sought indirectly, such as through third party agents, are solicited and received in full conformity with the law, the charity's own fundraising policies and procedures and these Guidelines.

Fundraising by third party agents should be the subject of a written contract. Trustees should ensure the contract is clear and specific as to the cost of the fundraising, including the percentage of each charitable donation that will go to the charitable purpose.

Donors have a right to expect that their gift is being used primarily for the charitable purpose. A charity must not enter into any agreement which is intended to deliver more private benefit to third party fundraisers than it does to the charity.

Volunteer fundraisers

Trustees should ensure that the charity has a policy for any activities involving volunteers, including how they are contracted and managed.[1]

Complaints and feedback procedure

Trustees should ensure the charity has clear, transparent procedures in place to enable interested parties to notify the charity of their complaints, questions or comments. These procedures should include systems to ensure that all complaints are responded to and addressed promptly, within a specified time frame.

Public or donor complaints should, in the first instance, be addressed by the charity in a prompt manner. Where the charity's initial response does not satisfy the complainant, the charity should provide clear information about the next level of the complaints procedure, as applicable.

If an individual is not satisfied with the manner in which their complaint is handled by the charity concerned, they should be advised of their right to raise a concern with the Charities Regulator.

Where, in the course of examining any matter, information comes into the possession of a charity trustee or any other person who has been duly appointed to carry out any of the functions of a charity trustee, that causes the person to form the opinion that there are reasonable grounds for believing that an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001 has been or is being committed, the person must notify the Charities Regulator in writing.

Legal obligations

Charities must be mindful of all relevant legal requirements and conform fully to these, including - but not limited to - obligations under charity, labour, equality, and data protection law.

Donors have a right to expect that their gift is being used primarily for the charitable purpose.

1 A useful resource in this regard is the Citizens Information Board publication Managing Volunteers: A Good Practice Guide, available on their website http://www.citizensinformationboard.ie/en/publications/voluntary_sector.html

5 Responsibilities of Charity Trustees

The ultimate responsibility for adherence to these Guidelines rests with the trustees of each charity.

The trustees are accountable to the beneficiaries, donors, funders and the public. Fundraising exists only to support the overall mission and charitable purpose of a charity. However, breach of trust in this area can lead to significant damage to the reputation of the charity and charities more generally.

Trustees are therefore responsible for ensuring that their charity fulfils its commitment to best practice in fundraising. Where, as often happens, trustees decide to delegate the day-to-day management of fundraising to employees or third parties, there should be effective systems in place to ensure that:

1. **any delegation is clearly documented (for example in staff job descriptions, volunteers' role descriptions and committees' terms of reference), understood and implemented;**
2. **there are checks that the delegated authority is exercised properly;**
3. **clear reporting procedures are in place, which include guidance on any particular matters that are to be reported to the trustees;**
4. **trustees receive regular and fully documented reports on agreed matters, presented in a way that they can understand and use and which allows them to exercise proper oversight;**
5. **management and staff implement and adhere to the Guidelines and fundraising is handled in a transparent, effective and efficient manner, in line with an agreed plan;**
6. **procedures are in place to enable donors, potential donors and the public to notify the charity of their questions, comments or complaints related to fundraising and systems are in place to ensure that all feedback, in particular any complaint, is responded to and addressed within a specified time frame, and;**
7. **fundraising strategy and operations are reviewed and audited on a regular basis.**

6 Responsibilities of Management

Charity trustees may delegate certain responsibilities to management, including the responsibility for organising or managing fundraising campaigns.

Those responsible for organising and managing fundraising campaigns and activities have a range of responsibilities in order to meet the commitment to donors.

The charity's Donor's Charter should be communicated to all fundraisers, whether voluntary, paid or third party agents.

Where events are organised in the charity's name but are not known to the charity until after the fact, the charity should work with the fundraiser concerned to ensure that the fundraiser is aware of the standards expected so that the fundraiser can ensure any future events held meet those standards.

Where management has responsibility for fundraising by a charity, they should ensure the following:

1. Fundraisers, suppliers and contractors are informed about and contracted to adhere to the Guidelines in their fundraising work for the charity; all paid fundraisers have appropriate contracts, including a clause confirming compliance with the Guidelines and relevant legal requirements relating to fundraising;
2. Where fundraisers are paid, payments are not excessive and are not likely to result in undue pressure being put on the public to donate and that the charity is informed as to whether payments to fundraisers are related to the performance of the fundraiser;
3. Appropriate training and support is in place to enable fundraisers to effectively carry out their role in an open, honest and respectful manner and in compliance with applicable legal requirements;
4. So far as is reasonably practicable, fundraisers are not exposed to risks to their health and safety;
5. Checks are in place relating to the suitability and credentials of fundraisers to raise funds on behalf of the charity;
6. Fundraisers are aware of and can generally communicate the charitable purpose of the charity and of the specific fundraising efforts in which they are involved;
7. Fundraisers are aware that they should disclose if they are employees of the charity or third party agents;
8. Fundraisers provide clear and adequate written or verbal information to donors and the public regarding the nature and type of follow up contact that they can expect from the charity, such as telephone calls, texts and the frequency of planned communications;
9. There is not misleading or ambiguous information in any of the charity's fundraising communications;
10. Procedures are implemented and safeguards are in place to ensure that, to the fullest extent possible, particular caution is exercised when soliciting from people who may be considered vulnerable, including from minors;
11. All public collections have a Garda permit, or where no permit is required, permission from the relevant local or other authority (such as for collections in church grounds).

7 Responsibilities of Fundraisers

Each charity should ensure that their fundraisers (voluntary, paid or third party agents) when engaging in fundraising activities on behalf of the charity are respectful, honest, transparent and comply with all applicable legal requirements.

It must be made clear at all times whether fundraising activities are for the charity in general or for a specific purpose. Charities must ensure that fundraising materials do not imply that money fundraised is for a restricted purpose (such as assisting a particular person or animal) when it may be used for different purposes or for general funds.

Fundraising activities should not be carried out in a manner which constitutes an unreasonable intrusion on a person's privacy, is unreasonably persistent or places a person under undue pressure to donate.

Any information obtained in confidence as part of the fundraising process must not be disclosed without express, informed prior consent of the donor.

All fundraisers should:

1. **be trustworthy and conduct themselves at all times with integrity and honesty and should act openly and in such a manner as to ensure that donors are not misled;**
2. **ensure that their actions enhance the charitable purpose and reputation of the charity that they represent;**
3. **disclose if they are employees of the charity or third party agents;**
4. **be able to state the purpose for which funds being collected will be used;**
5. **have a general knowledge about the aims and objectives of the charity and be able to inform donors of where they can find supplementary information;**
6. **not knowingly or recklessly disseminate false or misleading information in the course of their professional duties, nor permit others to do so;**
7. **not unreasonably intrude on the privacy of those from whom donations are being solicited;**
8. **not make unreasonably persistent approaches nor exert undue pressure on people to make donations to the charity concerned;**
9. **not act in a manner inconsistent with these Guidelines, or cause or permit others to do so;**
10. **not exploit any relationship with a donor, volunteer or employee for personal benefit or misuse their position for personal gain, and;**
11. **comply with all legal requirements which relate to their activities and advocate adherence to these within the organisation which employs them or for which they volunteer.**

8 Data Protection

A charity must follow appropriate procedures when handling and processing personal data from individuals.

All personal data must be collected fairly and lawfully and information which can be identified or attributed to one or more individuals must be treated as confidential.

A charity must comply with all legal requirements with regard to data protection legislation. The Charities Regulator also expects charities to conform to relevant guidance issued by the *Data Protection Commissioner, in particular, the Data Protection in the Charity and Voluntary Sector Guidelines*[2] as well as guidance relating to direct and inter-active marketing, including direct mail, email, telemarketing, digital and social media marketing, SMS text etc. A charity should respect donors' stated preferences regarding contact by the charity and should make it easy to communicate these preferences.

Where a third party firm or agent is employed by a charity to fundraise, the public have a right to reasonably assume that any data they provide is held only by the charity and not by the third party.

A charity must comply with all legal requirements with regard to data protection legislation.

2 Data Protection in the Charity & Voluntary Sector Guidelines (March 2014) https://www.dataprotection.ie/docimages/CharityMarch14%201.pdf

All relevant information must be collected and stored in line with the Guidelines issued by the Office of the Data Protection Commissioner which include the following:

1. Information must be fairly collected and all donors must be provided with adequate notice of how their personal data will be processed;
2. If a charity has information about people and wishes to use it for a new purpose, the charity is obliged to give an option to individuals to indicate whether or not they wish their information to be used for the new purpose;
3. Only the minimum necessary personal data should be sought by charities;
4. The retention of donor PPSNs, other than in relation to donations where tax relief remains relevant, is a breach of the Data Protection Acts 1988 & 2003;
5. Charities should implement a comprehensive retention policy for all records containing the personal data of donors, beneficiaries, registered campaigners etc;
6. All marketing preferences should be accurately recorded and respected;
7. Every charity should have a security policy and set of procedures which explicitly address the security aspects of any personal data being collected, transferred or held by the charity or any personal data disclosed to third parties and ensure that appropriate security measures are in place;
8. All charities should ensure that donors, clients, service users and employees are clearly informed of their rights under the Data Protection Acts to gain access to a copy of their personal data;
9. Every charity should draw up a Data Protection Privacy Policy and a separate Data Protection Statement for its website.

More information on the responsibilities of charities as data controllers is available on the website of the Data Protection Commissioner at www.dataprotection.ie.

General Data Protection Regulation

The General Data Protection Regulation, commonly referred to as the "GDPR", which will strengthen the rights of individuals in Europe, will come into force on 25 May 2018.

The GDPR will introduce significant changes in the area of data protection law by increasing the obligations and responsibilities of organisations in relation to how they collect, use and protect personal data. Many of the new requirements are of particular relevance to charities in the context of fundraising, where personal data may be collected from donors as part of such activities.

Key requirements of the GDPR include the requirement for organisations such as charities to be fully transparent about how they use and safeguard personal data and that organisations be able to demonstrate accountability for their data processing activities.

Charity trustees should ensure that they understand and are prepared for the new rules in this area.

Information on the GDPR and the main changes that it will introduce for individuals and organisations is available on the Data Protection Commissioner's microsite: www.gdprandyou.ie

9 Financial Transparency and Accountability

Financial accountability goes to the heart of transparency and is particularly important in the context of fundraising by charities.

Financial controls

Trustees must ensure the following:

- **The charity keeps proper books of account, which correctly record and explain transactions;**
- **Internal financial control procedures are in place to ensure that funds are used effectively and to minimise the risk of funds being misused;**
- **The charity reports annually to the Charities Regulator.**

Charities should be in a position to provide a full financial account of each individual fundraising event. This includes the gross amount of funds raised, the associated fundraising costs and to which charitable purpose or charitable fund the proceeds of the event have been allocated.

The Charities Regulator has published separate Guidelines on Internal Financial Controls for charities (available on our website). The Guidelines give practical guidance in relation to the main areas of financial control for charities: income; expenditure; banking (including payments and loans); assets and investments and monitoring arrangements. They contain a number of useful checklists for charities to ensure they have the appropriate controls in place. Charities are expected to follow the good practice set out in these Guidelines.

Every charity should, at a minimum, follow these procedures:

1. Cash should be counted and recorded by a minimum of two unrelated individuals, wherever possible, in a secure environment;
2. Cash and cheques should be banked as soon as is practicable. Charities should have a procedure on banking donations, identifying who does it and when. Cash not banked immediately should be placed in a secure location. Unsecured cash should never be left unattended;
3. At the earliest possible date, cash banked and income summaries should be reconciled. Where practical, this should be undertaken by a person independent of the counting and cashing up of the money;
4. Records must be made of donations for specific purposes (to certain appeals or projects) to ensure that the terms of donations are complied with. Charities must ensure that accepted donations are used to support the purposes in accordance with the conditions attached to the donation;
5. Where a charity is in receipt of funds restricted to certain purposes or projects and where the charity cannot realistically apply the funds within a reasonable timeframe to that purpose or project, the charity, in consultation with the Charities Regulator, must allocate those funds to a purpose as close as possible to the original intended purpose. Where practical, this change should be communicated to the specific donor(s);
6. All funds should be used reasonably and prudently in the interest of the charity. This involves ensuring that remuneration of fundraisers is proportionate to the benefit reasonably expected to be obtained. Payments to fundraisers must not be excessive;
7. Charities should make it clear to all volunteers that anyone raising money must ensure that the charity receives all that money. Volunteers should have only their out-of-pocket expenses reimbursed, on the basis of receipts provided;
8. Charities should implement a culture of zero tolerance to theft or fraud and any suspicions relating to such matters should be immediately raised by the charity with An Garda Síochána.

10 Monitoring

These Guidelines are issued by the Charities Regulator pursuant to section 14 (1) (i) of the Charities Act 2009.

Their primary aim is to encourage and facilitate the better administration and management of charity fundraising from the public.

The Charities Regulator's monitoring approach is primarily informed by the provisions of the Charities Act 2009. These provisions place specific and general duties on each charity and its charity trustees. They also provide the Charities Regulator with powers to register, monitor, investigate and sanction charities, as appropriate.

We monitor charities by:

- examining information which the charity is required to provide annually to the Regulator. This includes the provision of proper books of accounts, which trustees of all charities are required by law to keep;
- examining information which the Charities Regulator directs the charity or its trustees to provide;
- considering concerns received from the public and interested parties. Any member of the public or interested party may raise a concern with the Regulator if they have evidence that a charity has not complied or is not complying with the Charities Act. The Charities Regulator's policy on raising a concern can be found on the Charities Regulator's website, and;
- carrying out site visits and formal investigations, where required.

Cash Collections

An Garda Síochána are responsible for ensuring compliance by all persons, including charities, with the Street and House to House Collections Act 1962.

If a person believes that a breach of the Street and House to House Collections Act 1962 has occurred they should report the matter to An Garda Síochána.

Under section 28 of the Charities Act 2009, the Charities Regulator is obliged to provide any information obtained by it in the performance of its functions, that causes it to suspect that an offence has been committed by a charity trustee or a charitable organisation, to An Garda Síochána.

Appendix:

Useful Reference Points

Organisations

Charities Regulator
www.charitiesregulator.ie

Office of the Revenue Commissioners
www.revenue.ie

Charities Act 2009
www.irishstatutebook.ie

An Garda Síochána
www.garda.ie

Companies Registration Office
www.cro.ie

Director of Corporate Enforcement
www.odce.ie

Data Protection Commissioner
www.dataprotection.ie

Charities Institute Ireland
www.charitiesinstituteireland.ie

The Wheel
www.wheel.ie

Dochas
www.dochas.ie

Document Reference No CE GLS 8.2.1 003 Rev 000

Charities Regulator
3 Georges Dock
IFSC
Dublin 1
D01 X5X0
Telephone: 01 633 1500

www.charitiesregulatoryauthority.ie

© Charities Regulator 2017