

FUNDING &
FINANCE

Charities and Fundraising

April 2008



The Charity Commission

The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public trust and confidence. Most charities must register with the Commission, although some special types of charity do not have to register. There are some 190,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with a gross annual income or expenditure over £10,000 must provide annual information and accounts to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong.

More information about the Commission together with a range of guidance for charities can be found on our website www.charitycommission.gov.uk, or by contacting Charity Commission Direct:

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What is this guidance about?

1. This guidance explains the statutory controls regulating fundraising and provides:
 - general advice on effective fundraising;
 - an explanation of charity trustees' legal responsibilities in relation to fundraising;
 - information about the tax implications of fundraising; and
 - a list of useful sources of information.
2. Effective charitable work depends on securing adequate resources. In many cases this depends on effective fundraising. As fundraising is one of the principal influences on the public's perception of charity, the methods used and the integrity of the fundraisers are crucial to public confidence. It is very important that trustees manage and control fundraising effectively, efficiently, and economically. The highest standards need to be adopted and systems for protecting the money raised need to be put into place.

Meaning of words and expressions used

3. In this guidance:

The **1992 Act** is the Charities Act 1992.

The **1993 Act** is the Charities Act 1993.

The **2006 Act** is the Charities Act 2006.

Trustees means **charity trustees**. **Charity trustees** are the people who, under the charity's governing document, are responsible for the general control and management of the administration of the charity. In the charity's governing document, they may be called trustees, managing trustees, committee members, governors or directors, or may be referred to by some other title.

Governing document means any document setting out the charity's purposes and, usually, how it is to be administered. It may be a trust deed, constitution, memorandum and articles of association, will, conveyance, Royal Charter, Scheme of the Commission or other formal document.

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

- any charity or connected company;
- any officer or employee of a charity or connected company;
- any charity trustee;
- any public charitable collector - other than promoters;
- people who solicit funds on TV or radio; or
- any commercial participator.

In addition, the definition of professional fundraiser does not apply if the fundraiser receives £500 or less by way of remuneration in connection with a particular campaign or £5 per day or £500 or less per year where there is no specific venture.

A **commercial participator** is any person who carries on a business for gain, and which is not for fundraising, but who in the course of that business engages in any promotional venture (ie any advertising or sales campaign or any other venture undertaken for promotional purposes) in the course of which it is represented that contributions are to be given to or applied for the benefit of a charity.

Must is used to refer to actions that trustees, or their agents or employees, are obliged to take by law.

Recommend or **advise** are used where we are suggesting to the trustees actions which we consider to be good practice but which do not represent a legal requirement.

Choosing how to fundraise

4. The choice of fundraising methods is a matter for trustees to decide. However, charities need to be alert and sensitive to public opinion and criticism. Fundraising methods which meet with disapproval can damage the charity and reduce public confidence in the sector as a whole.
5. It is essential to spend time before undertaking any fundraising exercise to develop a strategy: some forms of fundraising can be costly and it is important to be sure that the costs will be justified in terms of a realistic return. The strategy will need to cover the following points:
 - the need for funds - are funds required for a special project or part of the charity's rolling programme of work? How much is needed? Would it be possible to collaborate with other charities operating in the same field to meet the need?
 - possible sources of funding - for example, grants from local or central Government, grantmaking charities or companies;
 - the resources available to support fundraising - fundraising costs money. Costs can range from producing appeal literature to employing a professional fundraiser and organising fundraising events;
 - the proportion of gross receipts which will be left after fundraising costs have been met. We strongly recommend that trustees agree, in advance, the likely proportion of the gross receipts which will be spent on the costs of fundraising. Actual performance needs to be monitored against that target and the trustees should satisfy themselves that the expenditure is justified.
6. Before committing expenditure to fundraising it may be useful to obtain advice from an appropriate professional or specialist. The Institute of Fundraising and the National Council for Voluntary Organisations keep lists of freelance fundraisers and consultants. The Wales Council for Voluntary Action holds a database of trainers and consultants. The database works on searches carried out according to field of specialism, geographical area, cost etc according to what has been specified by the client. Addresses for these three organisations can be found in Annex A of this guidance.
7. Further information on one particular form of fundraising - trading - is in our separate guidance *Trustees, trading and tax* (CC35) available on our website.

Accounting for fundraising

8. The costs of fundraising are a legitimate matter of public interest. Trustees should ensure that these costs are shown properly in the accounts. They include publicity costs associated with fundraising or raising the profile of the charity. They do not include costs of purely educational material produced by the charity as a way of achieving its purposes.
9. For those charities producing accruals accounts the *Accounting and Reporting by Charities: Statement of Recommended Practice (SORP 2005)* provides more detailed guidance.

Appeals for funds

10. Whatever type of appeal is chosen by trustees to raise funds there are certain points which trustees should bear in mind:
 - the purpose of the appeal should be clearly expressed. Where the appeal is for general funds then any specific project mentioned in the appeal document should be clearly identified as an example of the charity's work. Care needs to be taken so as not to mislead donors into thinking that their money will only be used for a particular project identified in the appeal literature where this is not the case;
 - if the appeal is for a specific project then it is very important that there are plans to deal with any unspent money and that these are reflected in the fundraising document. This will enable trustees to deal with any surplus funds that are raised over the appeal target or if the appeal fails to apply the money which was raised. Paragraphs 16-28 explain what to do if insufficient or surplus funds have been raised and plans have not been made;
 - we recommend that any funds raised for a special appeal be accounted for separately. One way to do this is to arrange for a separate bank account;
 - all contributions, as far as possible, need to be made directly to the charity and be under the control of the trustees;
 - where possible set an end date for the appeal.

Registered status to appear on certain documents

11. Trustees of registered charities with a gross income of £10,000 or more in the last financial year are required by section 5 of the 1993 Act to state, on a range of official documents, that the charity is a registered charity. The documents on which the statement must appear include notices, advertisements, material placed on web sites, and other documents issued by or on behalf of a charity intended to persuade the reader to give money or property to the charity. This includes the solicitation of membership subscriptions.

Fundraising by local charities for other charities

12. Where a local charity raises funds for another charity by acting simply as a fundraising agent then the following points need to be borne in mind:
 - prospective donors need to be clear which charity the funds will benefit;
 - the funds raised belong in law to the beneficiary charity and the collecting charity can only contribute to the costs of the fundraising if the purpose of the fundraising is within the collecting charity's objects;
 - separate financial records should be kept; and
 - the permission of the beneficiary charity needs to be sought before using their name and it is essential that they approve copies of any fundraising literature.
13. We strongly recommend that trustees check whether the beneficiary charity is a registered charity before fundraising starts. Under section 63 of the Charities Act 1992 a person may be found guilty of an offence where they falsely state that an institution for which they are raising money is a registered charity unless they have reasonable grounds for believing that the institution was registered.

Fundraising for health service bodies or local authorities

14. We recommend that, before arrangements for an appeal are finalised, the fundraisers discuss with the receiving body the terms upon which the appeal funds will be transferred.
15. Unless specific terms are agreed that are consistent with the terms of the appeal itself, a fundraising campaign to provide capital equipment or buildings will have fulfilled its charitable purposes once the equipment or buildings have been provided. Donors will then have no control over the subsequent use of the equipment or buildings which they have purchased, or have assisted in purchasing, even if it is proposed to sell or demolish them soon afterwards. We recommend that any conditions on the future use of the gift be agreed with the receiving body before making the appeal.

What to do if your appeal fails

16. An appeal fails when some or all of the funds cannot be applied for the purpose(s) stated in the appeal. This may be because insufficient funds were raised, or because surplus funds remain after the purpose has been achieved. These two situations are treated differently in law. Where insufficient funds were raised and/or the purpose of the appeal was not achieved, it is called **initial failure**; where the purpose has been achieved and there are surplus funds remaining it is called **subsequent failure**.

Planning your appeal to avoid failure

17. When funds are being raised for a specific charitable purpose (for example to purchase a piece of medical equipment for a hospital, or to repair or replace a charity's building), there is a risk that for some reason the appeal may fail – too much or too little money may be raised, the costs of completing the project may increase or the purpose of the appeal may become obsolete. We therefore recommend as good practice that any appeal for specific charitable purposes includes a wider, secondary purpose for which funds can automatically be applied if for any reason they cannot be applied for the main purpose of the appeal. For example:

“We are raising funds to buy a scanner for the hospital. If for any reason we can't buy the scanner, or there are surplus funds left over following the purchase of the scanner, we will use the money to buy other equipment that the hospital could not otherwise have.”

18. Alternatively, charities can make an appeal for general purposes, for example:

“Here is an example of one of our projects. To support this and other projects that we run, please give a donation to our charity.”

Initial failure - When insufficient funds are raised

19. If trustees have made a public appeal for a specific charitable purpose (for example, a new village hall) and insufficient funds are raised, then unless the appeal stated what would happen to any unused money, it is their duty to try to return donations to donors who can be identified.

20. Funds from a charitable appeal that has failed from the outset can be dealt with under s.14 or s.14A of the 1993 Act. The steps that trustees must take to return money to donors will depend on whether s.14 or s.14A applies. As explained below, s.14A only applies to appeals that include a particular statement. This cannot apply retrospectively; the necessary statement must be included in the original appeal to the donor. It follows that if trustees made no provision for the failure of the appeal, only s.14 can apply.

Section 14 applies to property given:

- for specific charitable purposes;
- which failed from the outset; and
- where section 14A did not apply.

Section 14A applies to property given:

- for specific charitable purposes;
- in response to an appeal or request (“solicitation”);
- where the solicitation is accompanied by a statement informing donors that if the specific purposes failed, donations would be made applicable for similar charitable purposes, unless the donor signed a declaration at the time of making their donation that, if the specific charitable purposes failed, they would prefer to be offered a refund; and
- where the specific charitable purposes fail from the outset.

Initial failure – following s.14 of the 1993 Act

- 21.** If a failed appeal falls within the provisions of s.14, responsibility falls on the trustees:
- to contact donors who can be identified and contacted, and return their donation to them unless they sign a disclaimer;
 - to give any other identifiable donors the opportunity to come forward and reclaim or disclaim their donation, by:
 - advertising the fact that the appeal has failed;
 - trying to trace donors who can be identified, by publishing advertisements and making enquiries;
 - advising donors of their right to have their donation returned;
 - allowing three months for donors to make any claims.
- 22.** Cash from collections where individual gifts cannot separately be identified (eg from collection boxes), and the proceeds of lotteries, competitions, entertainments, sales or similar fundraising activities, are automatically presumed to belong to unidentifiable donors. We can also direct by order that funds should automatically be treated as belonging to unidentifiable donors where in our view, in the circumstances it would be unreasonable for donors to expect the property to be returned.
- 23.** The 1993 Act gives us power to make regulations. The precise steps that trustees must take to contact identifiable donors are set out in these regulations (The Charities (Failed Appeals) Regulations 2008 - see paragraph 28). Once these steps are completed, the Commission can make a cy-près Scheme to alter the purpose for which the remaining funds can be applied. However, if any of the remaining funds belong to donors who can be identified but have still not been traced, the Scheme must create a reserve fund, which the trustees must keep for six months from the date the Scheme is made. This is for the benefit of any donors who make a claim within that six month period for the return of their donations. After that, any funds remaining in the reserve are applicable for the charitable purposes of the Scheme.

Initial failure - following s.14A of the 1993 Act

24. If an appeal falls within the provisions of s.14A, the onus is on each donor, at the time of making their donation, to complete a written declaration if they do not want their donation used for other charitable purposes in the event of the appeal failing from the outset. In the event of the appeal failing, the charity trustees would then be required:
- to contact any donors who made declarations, advising them that the appeal has failed, and asking them whether they wish to request their donations to be returned; and
 - to comply with any such requests made within the timeframe specified in the regulations (three months).
25. As with s.14, the precise steps that trustees must take are set out in The Charities (Failed Appeals) Regulations 2008. Once these steps are completed, the Commission can make a cy-près Scheme to alter the purpose for which the remaining funds can be applied. The property can be treated as if it belonged to a donor who had disclaimed their right to have the property returned. No donors have any further rights to make a claim.

Subsequent failure - Dealing with surplus funds

26. Where the appeal raised **more money** than is required, and the appeal did not specify what would happen to any surplus funds, then it will be necessary to write to us for advice on whether a Scheme or other legal authorisation will be required to enable the money to be used for other charitable purposes. Donors do not have any right to a refund.

Charitable appeals administered by NHS Trustees

27. Failed charitable appeals administered by NHS Trustees are dealt with under s.222 of the National Health Service Act 2006 (which restated S.96A National Health Service Act 1977). The donor is not entitled to have their donation returned; the funds are automatically applicable cy-près (subject to any specific provision in the appeal literature).

Further information and advice

28. For further details see our operational guidance OG53 *Charitable Appeals – avoiding and dealing with failure*. OG53 A1 explains the effect of sections 13, 14 and 14A of the 1993 Act, and OG53 B1 sets out The Charities (Failed Appeals) Regulations 2008.

Telephone fundraising and broadcast appeals

29. Where the telephone is used to raise funds it is the trustees' duty to ensure that the public are clear which charity the funds are for, what percentage of the donation will be spent on the objects of the charity and also ensure that all funds raised are transferred directly to the charity. (See also paragraphs 49 and 50 which affect telephone fundraising and broadcast appeals where a professional fundraiser or commercial participator is involved.)
30. The Institute of Fundraising has produced a code of practice for telephone fundraising. Copies can be obtained from them at the address given in Annex A.

Chain letters

31. Chain letters are not illegal but their use is generally discouraged by us and the Institute of Fundraising because they can be difficult to control. Once started they are difficult to stop and can give rise, when the appeal target has been met, to claims that the charity is misleading the public.

Statutory provisions controlling fundraising

Street collections

32. Raising money or selling goods for charity in streets or public places usually requires a permit or licence from either the appropriate local authority or if the collection takes place in London, the local police or the Common Council of the City of London.
33. Under the Police, Factories, etc (Miscellaneous Provisions) Act 1916, the Charitable Collections (Transitional Provisions) Order 1974 and the Street Collections (Metropolitan Police District) Regulations 1979 local regulations may be made. These deal with such matters as the obstruction and hindrance caused to traffic by flag days, carnivals, rag weeks etc and the places where, and the conditions under which, persons may collect money or sell articles for charitable and other purposes. The relevant authority should be consulted before any attempt is made to raise funds in its area.

House-to-house collections

34. House-to-house collections must have a licence or an exemption. Licences are granted by either the appropriate local authority or if the collection is in London, the local police or the Common Council of the City of London.

- 35.** Exemptions from the need to obtain a licence may be granted by:
- the Home Secretary - for a collection over a wide area (the whole of England and Wales or a substantial part of it); or
 - the local Police - for a local collection to be completed within a short period.
- 36.** The term collection includes visits from house-to-house, and also visits to public houses, offices and factories to appeal for money, other property (for example clothes) or to sell things on the basis that part of the proceeds will go to a charity. At present these collections are regulated by the House-to-House Collections Act 1939, and the House-to-House Collections Regulations 1947 and 1963.

New Regulations for public charitable collections

- 37.** The Charities Act 1992 (Part III) makes provision for new Regulations to be made governing public charitable collections to replace the separate existing legislation on street and house-to-house collections. No date has yet been set for the new Regulations.

Lotteries

- 38.** Charities may run lotteries in order to raise funds for their charitable purposes as defined in Section 3 and 5 of the Lotteries and Amusements Act 1976. The profits of such lotteries, that are promoted by charities or by subsidiary companies on their behalf, are exempt from tax provided the lottery is conducted within the requirements of this Act and the lottery profits are applied solely to the purposes of the charity. Where a subsidiary company, rather than the charity, is registered as the society under Section 5 of the Lotteries and Amusements Act 1976 the lottery profits will belong to the company and not to the charity for tax purposes. The exemption will not apply and the company will need to pass the profits to the charity under Gift Aid to obtain relief from tax.
- 39.** There are two main types of lotteries of interest to charities both regulated by the Lotteries and Amusements Act 1976 as amended by the National Lottery etc Act 1993:
- small lotteries; and
 - society lotteries.

Small lotteries

- 40.** Small lotteries do not need to be registered but they have to be incidental to an exempt entertainment. Exempt entertainments are defined by the 1976 Act and include fêtes, bazaars and dinner dances. Certain conditions have to be met which include no cash prizes, the sale and issue of tickets and announcement of the results must be carried out during the entertainment and on the premises where it is held and no more than £250 can be spent on buying prizes.
- 41.** Trustees are advised to seek professional advice if they are in any doubt.

Society lotteries

- 42.** Where a charity is promoting the sale of lottery tickets which will exceed £20,000 in value (or if taken together with sales from previous lotteries in the same year will exceed £250,000) it will be necessary to register with the Gambling Commission HM Revenue and Customs. Charities conducting lotteries below these thresholds are required to register with the local authority.
- 43.** There are detailed statutory regulations about the conduct of lotteries covering accounts, age restrictions, the maximum price of tickets and the amounts which may be paid out in prizes and deducted for expenses. Trustees are advised to consult the appropriate local authority or the Gambling Commission HM Revenue and Customs for further advice. The address of the Gambling Commission is given in Annex A.

Competitions and gaming

- 44.** Competitions such as bingo and the use of gaming (slot) machines are mainly regulated by the Gaming Act 1968 and trustees are advised to consult the Gambling Commission HM Revenue and Customs.

Professional fundraisers and commercial participators

- 45.** Where trustees decide to raise funds by employing a professional fundraiser or by entering into a promotion with a commercial participator they need to be aware of the provisions of **Part II of the Charities Act 1992 (as amended by the Charities Act 2006)** and **The Charitable Institutions (fundraising) Regulations 1994** (SI 1994/3024).

46. The terms professional fundraiser and commercial participator are defined by section 58(1) of the Charities Act 1992. An explanation is given in paragraph 3 of this guidance.

47. A checklist for agreements with both professional fundraisers and commercial participators can be found at Annex B. The major change is that the 'solicitation statement' made by professional fundraisers or commercial participators provide more information to the public. For a professional fundraiser this means that when soliciting for money or goods for a charity they must state:

- the 'notifiable amount' of their remuneration; and
- the method by which their remuneration is to be calculated.

The requirements for commercial participators have also changed. They must now indicate:

- how much (% or precise amount eg 10p) of the price paid for each product or service by consumers will be given to the charitable institution(s) concerned; or
- how much of any other proceeds from a promotional venture will be given to the charitable institution(s) concerned; or
- the sum of the donations given by the commercial participator to the charitable institution in connection with the sale or supply of the relevant goods or services.

The 'notifiable amount' is:

- the actual amount the charity will pay, if it is known, at the time the statement is made: or
- if the actual amount is not known an estimate of the amount to be paid.

What are the requirements for agreements between charities and professional fundraisers or commercial participators?

48. The requirements include:

- a written agreement, in a prescribed form, between the charity and the professional fundraiser or commercial participator;
- a statement to be given to inform potential donors what proportion of their donation will be used to pay the costs of the fundraiser;

- the public to be informed how the charity will benefit from its involvement with a commercial participator; and
 - the transfer of funds raised by professional fundraisers or commercial participators to the charity.
- 49.** The 2006 Act also requires paid trustees and paid employees of charities to make a statement if they are soliciting for funds on behalf of a charity. These statements must include:
- the position of the collector within the organisation;
 - that they are paid to be in that position;
 - the name of the organisation for which they are collecting.

These requirements do not apply to individuals who are paid less than £5 a day or less than £500 per annum. These requirements do not apply to unpaid trustees or volunteers.

- 50.** The Charities Act 1992 also contains special requirements about written statements and refunds in relation to telephone fundraising and broadcast appeals. Where a donor gives £50 or more to a professional fundraiser or commercial participator (regardless of the amount received by the charity) the donor has the right to a refund if it is requested within 7 days of either receiving the written statement from the telephone fundraiser (as is required) or of the broadcast appeal. These provisions apply to any method of payment used in response to telephone fundraising and to payment by debit or credit card in response to a broadcast appeal.
- 51.** Further, more comprehensive, guidance on the changes made to the 1992 Act by the 2006 Act has been published in draft form by the Office of the Third Sector, and is available from their website.

Charities' connected companies

- 52.** The rules do not apply to fundraising by a charity itself or, for most purposes, by a connected company, ie one wholly owned or controlled by one or more charities. However, we recommend that the company comply with the legal requirements as a matter of good practice. For example, a subsidiary trading company which operates a number of shops on behalf of a charity, might display at the till of each shop a notice stating that all the profits are paid to the charity.

Injunctions to prevent unauthorised fundraising

- 53.** Charities can seek an injunction to prevent unauthorised fundraising on their behalf.
- 54.** Part II of the Charities Act 1992 and The Charitable Institutions (Fundraising) Regulations 1994 provide that where a commercial participator or professional fundraiser is acting without an agreement with the charity or in accordance with an agreement which is not in the prescribed form the court may grant an injunction restraining the fundraising. In these circumstances no notice is required to be given to the professional fundraiser or commercial participator before an injunction is applied for.
- 55.** The Regulations contain similar provisions enabling charities to seek an injunction restraining any other person raising funds in the name of the charity where:
- the fundraiser is using methods to which the charity objects; or
 - the fundraiser is not a fit and proper person to raise funds for the charity; or
 - the charity does not wish to be associated with that fundraising venture.
- 56.** In this case, at least 28 days before seeking an injunction the charity must give notice in writing to the person who is raising funds:
- stating that they object to the fundraising on the charity's behalf;
 - giving details of their objection;
 - requesting them to cease forthwith; and
 - advising them that if they do not comply with the notice, an injunction will be sought.

Use of a charity's name by a commercial concern - sponsorship

- 57.** A charity's name is precious. It is the means by which a charity is known and by which its reputation will be judged. We therefore strongly recommend that trustees be careful how they allow it to be used, especially by a commercial participator during a promotional venture.

- 58.** Before they enter into an agreement which allows the charity's name to be associated with a particular business or product they need to, in addition to the statutory requirements mentioned in paragraph 48, make sure:
- that the relationship is appropriate for a charity and will not damage either that particular charity or the good name of charity as a whole;
 - that raising the same money in some other way would be less efficient;
 - that the name will not be exploited for non-charitable purposes;
 - that the terms are generally to the benefit of the charity;
 - that the terms are precisely drafted in detail and kept under review so that the name is not misused or improperly exploited; and
 - that they have the right to prevent future use of the name if they are not satisfied about the matters mentioned above.
- 59.** We have produced further detailed guidance on sponsorship, *Fundraising through partnership with companies*. Included in this guidance is general information on the tax treatment. This guidance can be found on our website, www.charitycommission.gov.uk, under publications and Guidance.

Fundraising events and tax

- 60.** Not all fundraising events undertaken by charities will be tax exempt. Equally not all events on which there is no tax to pay can be undertaken by charities.
- 61.** There are special rules about charities and trading, covered in our guidance *Trustees, trading and tax* (CC35) available on our website. There are also special rules on lotteries, covered in paragraphs 40 to 43.

Is there tax to pay on a fundraising event?

- 62.** Since 1 April 2000, charities no longer have to deal separately with the Inland Revenue and Customs and Excise to determine whether fundraising events qualify for exemption. If the event meets the criteria for VAT exemption, then they will automatically qualify for the purposes of the exemption from Income Tax and Corporation Tax. The Charity Commission cannot give detailed advice on these matters: charities should approach HM Revenue and Customs on matters of taxation. Contact details are in Annex A.

- 63.** Under the Value Added Tax (Fundraising Events by Charities and Other Qualifying Bodies) Order 2000, there are three key elements in deciding whether there is tax to pay on a fundraising event. These are:
- the event must be organised and promoted exclusively to raise money for the benefit of a charity, or another qualifying body. 'Other qualifying bodies' include a charity's wholly owned non-charitable trading subsidiary;
 - the event must be one that can be held for fundraising purposes. This is covered in paragraph 64;
 - there is a limit to the number of events of the same kind at any one location in any one financial year of the charity. This is covered in paragraph 65.
- 64.** The following list, which is not intended to be exhaustive, sets out some of the different kinds of event that may, in the view of HM Revenue and Customs, be held for fundraising purposes:
- a ball, dinner dance, disco or barn dance;
 - performances: for example concerts, stage productions, and other events which have a paying audience;
 - film showings;
 - a fête, fair or festival;
 - horticultural shows;
 - exhibitions - including art, history, science etc;
 - a bazaar, jumble sale, car boot sale, or good as new sale;
 - games of skill/contests/quizzes;
 - firework displays;
 - a dinner, lunch, or barbecue;
 - an auction of bought-in goods;
 - raffles or lotteries.

- 65.** There is a restriction to 15 events of the same kind at any one location, in any one financial year of the charity. This means that, for example, a charity could hold up to 15 events of the same kind in each of a number of different towns or villages, and still qualify for the reliefs for all of these events. However, the reliefs do not apply to **any** events of the same kind at a location if more than 15 are held there in a year. So a charity which held say 16 events of a particular type in one location would have to pay tax on all of them. The reliefs do apply to events of different kinds held at the same location (subject to the 15 limit).
- 66.** Any event, or succession of events, of the same kind in a particular location will not be counted in the figure of 15 if the weekly turnover of the event(s) is not more than £1000. If the weekly turnover exceeds £1000, then that particular event or those events are not small scale events and will count towards the 15 events-of-the-same-kind-per-location allowance.
- 67.** Where an event is not covered by any of these concessions or exemptions then tax relief may still be obtained where a separate body carries out the event and donates the profits to charity via the Gift Aid Scheme.

Can the charity undertake the event?

- 68.** A charity's assets have been given for its charitable purposes, and should not be exposed to any serious or substantial risk of loss from fundraising activities. Risks which might be acceptable commercially will not necessarily be acceptable for a charity to undertake directly.
- 69.** We therefore strongly advise trustees to take appropriate professional advice before undertaking significant fundraising events. This is particularly the case if the turnover of the event is likely to exceed the higher of either £5000 or 25% of the charity's income, subject to an overall limit of £50,000. It will normally be appropriate for all larger scale activities to be conducted by a trading subsidiary rather than the charity itself.

70. For example, large scale events such as celebrity concerts, sporting events etc can be a valuable way of raising funds. Experience shows however that they are also risky, and charity trustees should not normally undertake such activities within the charity. Instead, they can be carried out by a trading subsidiary of the charity, and the charity protected from the risk of loss. So charities can still take full advantage of the favourable tax regime a wholly owned trading subsidiary of the charity that pays all its profits to charity will be taxed in the same way as a charity.

Annex A - Sources of advice

The Home Office has produced a guide, entitled Charitable fundraising: Professional and Commercial Involvement, explaining the rules in detail. Copies may be purchased from The Stationery Office - ISBN 0-11-341133-2.
Tel: 0870 600 5522.

The Institute of Fundraising has produced model forms of contract for use with professional fundraisers and commercial participators. They can be found on the website of the Institute of Fundraising.

The following organisations provide guidance or codes of practice that may be useful:

Directory of Social Change

24 Stephenson Way
London NW1 2DP

Tel: 0845 77 77 07

Website: www.dsc.org.uk

Gambling Commission

Lotteries Section
4th Floor
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6666

Fax: 0121 233 6720

Web: www.gamblingcommission.gov.uk

HM Revenue and Customs

- see under HM Revenue and Customs in the local telephone directory

HMRC Charities

St John's House
Merton Road
Bootle
Merseyside L75 9BB

Tel: 0845 302 0203

Institute of Fundraising

Park Place
12 Lawn Lane
London SW8 1UD

Tel: 020 7840 1000

Web: www.institute-of-fundraising.org.uk

National Council for Voluntary Organisations

Regent's Wharf
8 All Saints Street
London N1 9RL

Tel: 0800 2798 798

Freephone helpdesk: 0800 2798 798

Wales Council for Voluntary Action

Baltic House
Mount Stuart Square
Cardiff Bay
Cardiff CF10 5FH

Tel: 029 2043 1700

Helpdesk: 0800 2888 329

Annex B - Checklists

Checklist for agreement with a professional fundraiser

The following may be of help to trustees when considering the content of an agreement with a professional fundraiser:

- is the fundraiser reputable? Can other charities provide a reference? Is he or she a member of the Institute of Fundraising?
- is there a period of notice specified to enable the trustees to terminate the agreement if they are unhappy with the fundraiser? What is the period of notice? Trustees should avoid committing themselves to long periods of notice. Between one and three months should be ample in most cases;
- is the method the fundraiser intends to use likely to be distasteful to the public or to the charity's supporters? Often such methods are quite legal and we cannot enforce any suggestion to stop them;
- are the charitable institution's trademarks, and other intellectual property rights in logos, artwork etc, safeguarded by the agreement?
- are any collecting boxes obtained by a fundraiser the charity's property? What control do the trustees have over siting, emptying and what becomes of the boxes after the agreement ends?
- does any confidential information about the charitable institution which the fundraiser has acquired need to be safeguarded (ie not divulged without the institution's permission)?
- should a fixed charge be set in the agreement for the fundraiser's remuneration or should it be calculated partly or wholly as a percentage of funds raised? (If the latter basis is used, trustees should bear in mind that the more money raised, the more the fundraiser will be entitled to - if this sum appears large, adverse publicity may result);
- if the charity uses a fulfilment house to process incoming payments, will the funds be held in a separate account specific to the charitable institution so that they can be properly accounted for? Alternatively, can the funds be directed to an account fully under the trustees' control?

Checklist for agreement with a commercial participator

The following may be of help to trustees when considering the content of an agreement with a commercial participator:

- is there a period of notice specified to enable the trustees to terminate the agreement if they are unhappy with the commercial participator? What is the period of notice? Trustees should avoid committing themselves to long periods of notice. Between one and three months should be ample in most cases;
- are the charitable institution's trademarks, and other intellectual property rights in logos, artwork etc, safeguarded by the agreement?
- is the agreement with a manufacturer or the retailer? It may be useful to make the position clear in the agreement.

The Institute of Fundraising has more comprehensive advice for charities that enter into agreements with professional fundraisers and commercial participators. Further details can be found on their website.

Significant changes from the previous version of this guidance

The principal changes in this version compared to the previous (July 2004) version reflect changes brought in by the Charities Act 2006 and relate to:

- the content of solicitation statements made by professional fundraisers and commercial participators;
- new requirements for employees and paid officers to make solicitation statements when fundraising for their charity;
- the new provisions affecting failed appeals.

Other minor and consequential amendments have also been made to keep the text as up to date as possible.

This publication can also be accessed at the Charity Commission's website: www.charitycommission.gov.uk

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