

Fundraising for charities

A guide for charity trustees and the public



The Charity Commission for Northern Ireland

The Charity Commission for Northern Ireland is the regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Communities.

Our vision

To deliver in partnership with other key stakeholders in the charitable sector “a dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission’s effective delivery of its regulatory and advisory role.”

Further information about our aims and activities is available on our website www.charitycommissionni.org.uk

Equality

The Charity Commission for Northern Ireland is committed to equality and diversity in all that we do.

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Online or in print

If you are viewing this document online, you will be able to navigate your way around by clicking on links either within the contents page or text.

We have produced a glossary that provides further information, definitions and descriptions of some key terms. The words in **bold green type** indicate words that are found in the glossary towards the end of this document. If you are reading the document online you can click on the word and it will link you to the definition in the glossary. The words in *blue italics* indicate links to other guidance.

Please check our website www.charitycommissionni.org.uk to make sure you are viewing the latest version of this policy.

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Section 1: Overview

Charities play a vital role in our society, strengthening communities and providing critical services to those in need. Fundraising is a key source of income for many charities. For some, it is their sole source of income, enabling them to fulfil their charitable purposes. The generosity of the public reflects its trust and confidence in charities. This confidence may be lost if members of the public believe that monies are not being used to advance charitable purposes, and trust can be damaged irreparably, when donors feel taken for granted as a result of poor fundraising practice.

Poor **fundraising practice** has been the focus of much media attention in recent years. This has led to a number of significant changes in how fundraising is perceived and regulated. While the poor practice highlighted is centred on charities in England and Wales, it is important that charity trustees understand what went wrong and learn from mistakes made. All charities must put in place the necessary checks and balances required to ensure that fundraising standards are met and public trust and confidence is maintained.

This guidance is intended to support charities in their governance role and inform the public, as potential donors and charity stakeholders:

Section 2 is aimed at charity trustees and examines what the new system of fundraising regulation means for them. It looks at how they can address their obligations, and make informed choices about their charity's fundraising strategy.

Section 3 is primarily aimed at members of the public and provides guidance on the standards of practice they can expect from charities engaged in fundraising. It highlights a range of issues about which they can complain, where fundraising standards have not been met. This section also provides information on the various bodies with whom they can raise their concerns.

Section 4 is aimed at charity trustees and provides a summary overview of the various regulatory and self-regulatory systems now in operation across the UK and Ireland, including data protection requirements and links to key guidance.

What does this guidance cover?

The principles of good governance encompass everything that a charity does, from service provision to fundraising. This guidance is designed to support charity trustees in understanding their obligations in relation to fundraising and to direct them to relevant guidance on fundraising practice and associated issues such as data protection. It is also intended to inform members of the public about:

- The key issues to consider before making a donation.
- How to register a complaint should they be concerned about a fundraising activity or a charity's fundraising practice.
- Who they can complain to.
- What they can complain about.

What does this guidance not cover?

This guidance is not a substitute for advice from the Fundraising Regulator, the Police Service of Northern Ireland, the Information Commissioner's Office or a charity's own professional advisers. It does not set out the detail of fundraising standards which is covered in the **Code of Fundraising Practice**, published by the Fundraising Regulator, and it does not provide detailed information on the full range of laws that apply to different types of fundraising activity.

Who does this guidance apply to?

The following guidance has been developed to assist charity trustees to understand their general responsibilities concerning fundraising, ensuring that the reputation of their charity is protected. It will help charity trustees, employees and volunteers to identify key areas which must be considered and managed when developing a fundraising strategy. Which is applicable to fundraising carried out internally or out-sourced to professional fundraisers.

This guidance will also be of interest to charity donors and members of the public who may wish to register a concern in relation to charitable fundraising. It will also help the public to better understand the high standards expected of charities engaged in public fundraising.

What are legal requirements and best practice?

In this document, where we use the word '**must**' we are referring to a specific legal or regulatory requirement. We use the word '**should**' for what we regard as best practice, but where there is no specific legal requirement. Charity trustees should follow best practice guidance unless there is a good reason not to.

The following are some **key terms** that it will be useful to understand when reading this guidance. These, and other terms, are also listed in a **Glossary** towards the end of this guidance.

Key Terms:

Fundraising practice: The act of raising money by requesting gifts, donations, pledges, sponsorship, or legacies including land or property, by directly or indirectly engaging with members of the public and organisations such as trusts, foundations or private corporations, through a fundraising activity or professional fundraiser. This can include, face to face, or contact via telephone, text, postal services, advertising, social media or the internet.

Breach of trust: Any abuse of power, or failure (whether or not it is deliberate, dishonest, or negligent) to carry out the specific, general and fiduciary duties of a trustee. For charity trustees these duties may be found in the provisions of a charity's governing document, legislation regulations and orders of the Court or the Commission.

Personal data: is any information relating to a living person which distinguishes them from other individuals, and which on its own or in combination with other information, directly or indirectly identifies that person. For example an online identifier (IP address), may be regarded as personal data.

Charity legislation

References in this document to 'the Charities Act' are to the **Charities Act (Northern Ireland) 2008**.

Who regulates fundraising practice in Northern Ireland?

In Northern Ireland fundraising is largely a self-regulated activity. It is guided by both legal and good practice requirements, under the oversight of the **Fundraising Regulator** (FR). Where necessary, the FR will work in conjunction with statutory regulators such as the Police Service of Northern Ireland (PSNI), the Information Commissioner's Office (ICO), and the Charity Commission for Northern Ireland (the Commission). It is the responsibility of charity trustees to ensure that they understand their obligations and put arrangements in place to make sure their fundraising complies with the relevant legal requirements and standards.

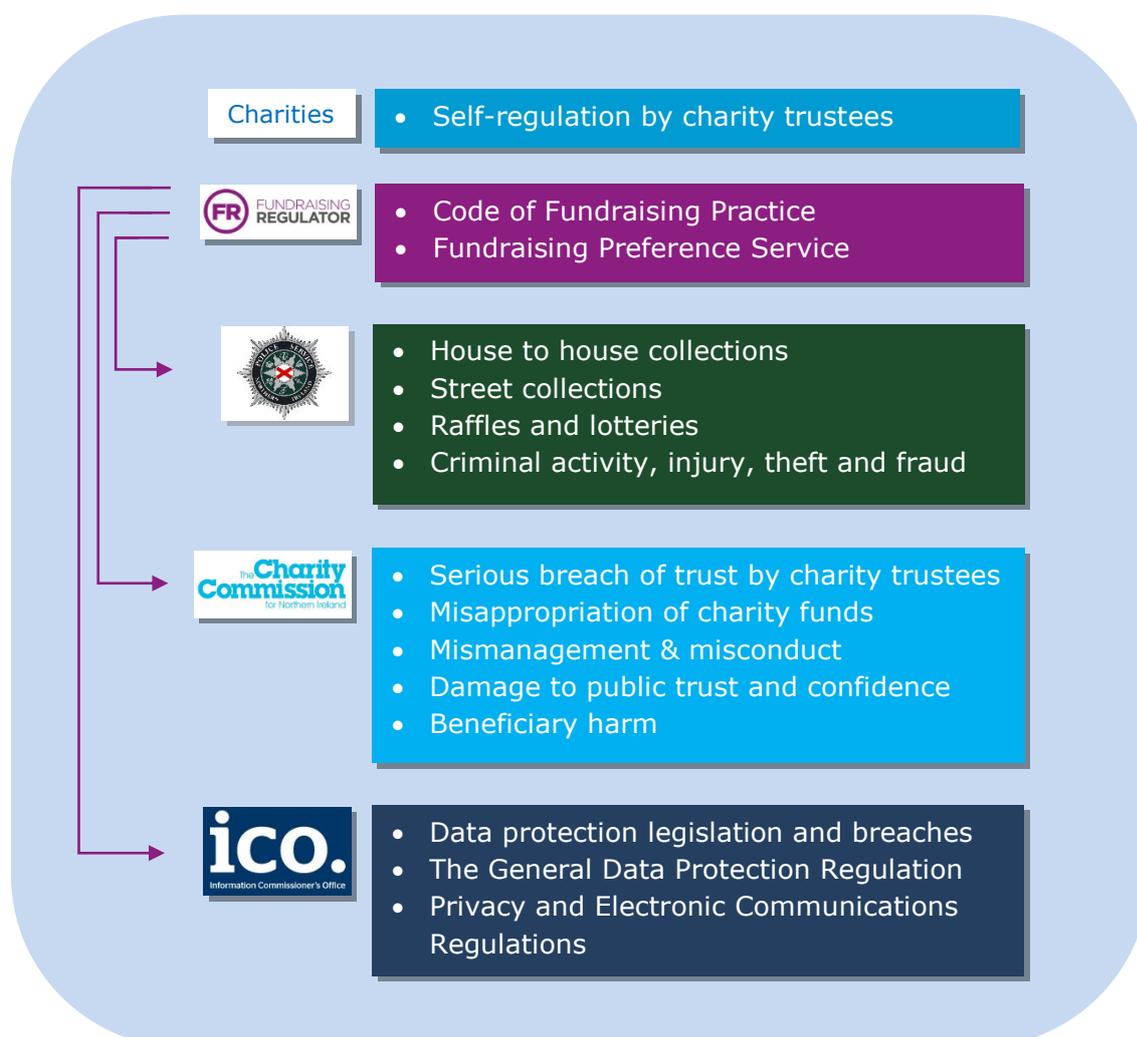
Charities and other fundraising organisations are expected to adhere to a set of standards which have been developed to ensure that fundraising is open, transparent and accountable. These standards are set out in *The Code of Fundraising Practice* (the Code). Adherence to the Code is fundamental to the principle of self-regulation. If a donor or member of the public believes that a charity's fundraising practices are contrary to the Code, they are expected, in the first instance, to raise these concerns with the charity trustees. Should this prove unsatisfactory, they are encouraged to report their concerns to the Fundraising Regulator.

Depending on the nature and impact of the concern, in terms of the risk to charity assets and reputational risk to the charity sector at large, the FR will inform the Commission, which may take further action (examples are provided under sections 3 and 4 of this guidance). The FR will also refer cases that involve criminal activity to the PSNI, which may conduct its own investigation. Where a concern involves a serious breach of data protection law, the FR will inform the ICO which may take further action.

Certain fundraising activities are governed by individual pieces of legislation, such as street collections, house to house fundraising and the use of raffles and lotteries. The law in Northern Ireland in relation to these matters differs from the rest of the United Kingdom. Charity trustees must be mindful of the various restrictions and permissions required under these specific pieces of legislation, which are regulated by the PSNI. Further information on the regulatory framework which governs charity fundraising, is provided under **Section 4** of this guidance.

The following diagram offers a visual overview of the regulatory framework which governs fundraising in Northern Ireland.

Figure 1: Fundraising regulation at a glance



Section 2: Fundraising practice, getting it right

This section is aimed at charity trustees in particular. It explains what is meant by self-regulation, the relevance of the Code of Fundraising Practice and its associated rule books. It also outlines how charity trustees should address their obligations in relation to the Code and in relation to good governance, and it supports charity trustees to make informed choices about their charity's fundraising strategy.

2.1 What does self-regulation mean?

Self-regulation operates on the basis of cooperation between charities and the Fundraising Regulator (FR). For self-regulation to work it requires charities to understand and adhere to the fundraising practice standards set out in the Code of Fundraising Practice and its associated rulebooks for street collections, house to house and private site fundraising.

The FR will seek to resolve and adjudicate on issues that arise between members of the public and fundraising organisations without the need for statutory intervention. The FR can seek information on the actions of any charity in relation to a fundraising complaint and take appropriate remedial action, regardless of whether or not the charity is registered with the FR.

It is important to note, that following the number of good governance failures highlighted through various inquiries and reviews, this new system of self-regulation was presented by the UK government as the last available chance for charities to address poor fundraising practice, with failure potentially leading to the introduction of statutory regulation.

2.3 Standards for fundraising practice

Fundraising is an opportunity for charities to engage with members of the public on issues they care about. Donating to a charity should be a positive experience for both parties. The [Code of Fundraising Practice](#) and its associated [rulebooks for street collections, door to door and private site fundraising](#), outline the standards expected of all charitable fundraising organisations across the UK. It is the duty of all charity trustees to ensure that their fundraising practices and those of any organisations which they sub-contract, are compliant with the rulebooks and the Fundraising Regulator's Code of Fundraising Practice. Not all

sections may be relevant to your charity, relevance will depend on the nature and extent of fundraising activities undertaken.

2.4 What is included in the Code of Fundraising Practice?

The Code establishes a set of key principles and behaviours for fundraising practice. It sets high standards for fundraising which forms an important aspect of raising and maintaining public trust and confidence in charities across the UK.

While the Code itself is voluntary, it is underpinned by relevant legislation applicable to each UK jurisdiction, and is continually being developed to take account of new legislation. Legal references and appendices must be read in conjunction with the particular section of [the Code](#) in which they appear. For ease of use, the code is divided into individual sections. A review of how the Code is structured is due to take place later this year and will look at ways to improve its layout and accessibility.

- Key Principles and Behaviours
- Working with Volunteers
- Working with Children
- Working with Third Parties
- Personal Information and fundraising
- Fundraising Communications and Techniques
- Direct Marketing
- Reciprocal Mailing
- Telephone
- Digital Media
- Trusts
- Major Donors
- Corporate Partnerships
- Raffles and Lotteries
- Fundraising through Payroll Giving
- Events
- Public Collections
- Static Collections
- Legacies
- Payment of Fundraisers
- Handling of Donations

Northern Ireland legislation relevant to specific fundraising activities such as street collections, house to house collections and running a lottery or other type of ballot is included under [Section 4](#) of this guidance.

2.5 What is the Fundraising Preference Service?

The Fundraising Preference Service is an online/telephone service operated and managed by the Fundraising Regulator. It was established in response to concerns raised over “aggressive” direct marketing of

donors and members of the public by some charities. It offers members of the public the opportunity to stop direct marketing communications from charities of their choice. It also serves to ensure that charity resources are better targeted by requiring charities to remove the details of uninterested persons from their mailing lists and databases.

2.6 What should charity trustees consider when developing a fundraising strategy?

Charity trustees have overall responsibility and accountability for their charity and must at all times act with due care in the best interests of the charity. They are responsible for setting the charity's overall strategy, for upholding its values and protecting its reputation. Fundraising is a critical function for many charities and whilst the approach that individual charities take to fundraising will vary depending on the size of the charity and the type of funding required, all fundraising demands careful consideration, planning, oversight and accountability.

A fundraising strategy should include every aspect of the organisation's income generation, from street collections to private trust funding. In terms of good governance, charity trustees have an overall duty to protect their organisation, its beneficiaries, assets and reputation. This is integral to their role and should be at the heart of everything that they do and ask others to do on behalf of their charity. While the Code of Fundraising practice does not cover public sector funding or government contracts, individual funding agreements between charities and grant making bodies such as the European Union, government departments or local authorities, contain their own obligations which charity trustees must address.

Taking responsibility for your charity's fundraising means setting out and monitoring your approach to all fundraising activities. Charity trustees should consider the following key questions in developing their approach to fundraising in general:

2.6.1 What are the immediate and long term financial needs of the charity?

What resources are needed to deliver the organisation's **charitable purposes**, to meet its liabilities as they fall due and to safeguard the charity's assets in the longer term? This may be achieved using a mixture of funding streams and approaches.

Charity trustees also need to be mindful of the costs associated with some fundraising strategies and activities and determine what approach best suits the organisation's particular needs and values.

2.6.2 Why is this funding necessary?

You should be clear about why your organisation is undertaking a particular fundraising campaign or applying for funding. Charity trustees should be able to explain to donors and members of the public why they are asking for money and how money raised will be spent, in line with the Code. You should also, as a matter of good governance, explain to funders how monies awarded will be used to further the organisation's charitable purposes.

Charity trustees should provide clear information to the public when running a fundraising campaign to include information on:

- who the charity is
- what it does
- what the funds raised are for
- how they will be used
- how to donate, and
- what deductions will be made in relation to third party fundraising costs.

2.6.3 How and when will the fundraising plan be achieved?

Consider how you propose to raise funds for the charity, what risks may be involved and what safeguards they need to put in place, to ensure that the plan can be achieved within the required timeframe.

2.6.4 What fundraising methods will be used and how will they be assessed and supervised?

Be sensitive to public opinion when fundraising, as concerns about a charity's fundraising techniques can damage its reputation and reduce public confidence in the charity and the sector. Consideration should be given to how the fundraising strategy will reflect the organisation's stated values. Charity trustees should also consider how they will ensure that staff, volunteers and fundraising partners fully understand their role, and ensure adherence to the charity's values and fundraising practice standards.

Where grant or contract funding opportunities are identified, as a matter of good governance, charity trustees should give careful consideration to

how the funders' outcomes relate to their charitable purposes. Large contracts should be assessed for potential impact on the charity, its beneficiaries, volunteers and staff before they are entered into.

2.6.5 What resources are required to achieve the plan and what proportion of the funds raised will remain with the charity after fundraising costs have been met?

Charity trustees should consider at the outset what resources are available to the charity to take their fundraising strategy forward, who will be responsible for the day to day management and delivery of the strategy and what skills they require.

Clear reporting procedures should be established, that include guidance on any particular matters that are to be reported to the charity's trustees. Carefully consider the terms of [third party fundraising agreements](#) and whether these are in the best interests of the charity. Charity trustees should also ensure that sufficient checks are carried out on any fundraising partners, satisfying themselves as to their solvency, integrity, reputation and ability to deliver.

2.6.6 How will funds raised be managed and accounted for?

Charity trustees have legal duties to effectively control and protect the assets of their charity and the resources they use and raise. You must be satisfied that you have sufficient control and oversight over funds raised and spent. The public should be confident that all donations are collected, counted, banked and recorded in line with established policies, procedures and best practice and that monies raised are spent as advertised.

Sometimes a fundraising appeal can leave a charity with more money than is needed to accomplish the purpose of the appeal, or too little money to accomplish it. Charity trustees should identify an appropriate secondary purpose for the appeal and make this clear to the public. Without this, you may need to apply to the Commission for a scheme that allows the money to be applied to another charitable purpose. Further guidance on [Requesting a scheme](#) is available on our website.

2.6.7 What legal and best practice requirements apply?

Charity trustees should ensure that they are aware of and have taken account of applicable legislation. You should ensure that all fundraising practice undertaken in their name meets the standards set out in the

Code of Fundraising Practice and legal requirements such as charity law, data protection law, any contractual obligations attached to trust/grant funding and specific legislation such as street collections, house to house collections and lotteries legislation, as applicable. Further information and guidance on this legislation is provided under [Section 4](#) of this guidance.

It is also important for charity trustees to be able to distinguish between fundraising and charitable trading, and comply with relevant tax law. Commercial activities carried on by a charity's trading subsidiary must not pose a risk to the assets or reputation of the charity. If you are unsure about trading, seek independent legal and/or tax advice. [HMRC](#) can provide further information on the tax reliefs and liabilities of charity trading, The [Institute of Fundraising](#) provides additional guidance on charity trading for the purposes of fundraising.

Charity trustees, employees and volunteers must be aware of and comply with data protection law when fundraising. This includes face to face, online, direct mail, events, broadcast and telephone fundraising which involves handling personal details such as names, contact details and credit or debit card details. Fundraising constitutes direct marketing under data protection law as it involves promoting the purposes of a charity. Charities intending to send fundraising messages electronically, such as by telephone, fax, email and text, also need to be aware of the Privacy and Electronic Communications Regulations 2003 (PECR) which cover the sending of unsolicited (unrequested) marketing messages electronically. Charity trustees should consider the ICO's [Guide to direct marketing](#) at the outset of any fundraising campaign.

Data protection is a critical function of any organisation and due to the sensitive nature of information held by many charities, it is vital that charity trustees get it right. Negative media attention has highlighted serious governance failings and abuse of personal data by some charities.

Under the General Data Protection Regulation, which came into operation on 25 May 2018 the information you must give donors has been enhanced. For example charities must now explain to their donors: the **legal basis** for using donor data, how long you intend to keep their data, and the fact that they have the right to complain to the Information Commissioner's Office (ICO) if they think there is a problem in the way you are handling their data.

Changes to data protection legislation provide an opportunity for charities to present themselves afresh to prospective donors and members of the public, building strong relationships based on trust and respect. Charities should refer to the ICO's [Guide to GDPR](#) for more information on the changes to data protection law. You may also wish to seek legal advice if you are unsure of your legal obligations. Further information is available under **Section 4** of this guidance.

2.6.8 What financial, reputational and other risks does the plan pose to the charity and how can these be mitigated?

Charity trustees should identify the key risks to which their charity is exposed as a result of planned fundraising and consider how these can be reduced and where possible, eliminated.

Fundraising is a key way that charities connect with supporters, donors and the public. A charity's approach to fundraising has the potential to significantly build or damage its reputation. Consider developing a policy which identifies occasions when accepting a donation may not be in the best interests of the charity and putting in place effective procedures for dealing with complaints.

Volunteers and staff should be managed and supported to ensure that good fundraising practice is understood and implemented. There should also be effective controls in place over assets and resources used and raised.

2.6.9 How will the plan be monitored and evaluated?

Charity trustees should monitor progress against planned income and expenditure, identified risks and fundraising performance standards. This includes monitoring the performance of third party fundraisers against agreed standards. If necessary, your fundraising plan should be amended to take account of learning obtained following review and in response to identified need.

2.7 Risk management

In its lifetime, a charity will experience a variety of risks. It is the responsibility of charity trustees to manage actual and potential risks to ensure the charity can continue to meet the needs of beneficiaries, at

present and in the future. They should always put appropriate safeguards in place and take reasonable steps to ensure their charity is not exposed to undue risk, whether financial or reputational.

Example 1: Reputational risk which the Commission expects charity trustees to manage appropriately.

Suspicious are raised when a member of the public contacts a charity to confirm the validity of a house to house collection, which has taken place using the charity's name, collection bags and promotional materials. The charity trustees have no knowledge of recent fundraising events being undertaken on their behalf. They respond by contacting the PSNI immediately and reporting the matter to the Commission as a Serious Incident. In line with Commission recommendations, they also alert potential donors and members of the public to the fraudulent collection using social media.

Fundraising covers a wide range of activity, each carries a degree of risk. While it may not be reasonable to try to remove all potential risks, it is important that charity trustees identify the key risks to which their organisation is exposed and decide how they are going to deal with them. The Code of Fundraising Practice and other key guidance referred to throughout this document offers charity trustees a safer path through the potential risks and pitfalls presented by any fundraising strategy.

2.8 Key support and learning

The [Institute of Fundraising](#) (IoF) is the professional membership body for fundraising in the UK. The IoF provides a range of resources to support charity trustees and fundraisers to develop a fundraising strategy and take key decisions in relation to fundraising practice. These resources include:

- [The General Data Protection Regulation \(GDPR\), the essentials for fundraising organisations](#)
- [Trustees and fundraising, a practical handbook](#)
- [Treating donors fairly, fundraising with people in vulnerable circumstances](#)
- [Trading and VAT](#)

The [Fundraising Code of Practice](#) also sets out the rules according to the regulations for street collections in Northern Ireland and the Northern Ireland Council for Voluntary Action (NICVA) provides detailed guidance on [street and house to house collections](#), along with key information on the restrictions and exemptions that apply to [running a lottery](#). Further information on lotteries and the law and in particular, societies' lotteries, is outlined in [information leaflet SL4](#), produced by the Department for Communities.

The Civil Aviation Authority has produced guidance for charities and fundraisers who wish to offer flights or flight-inclusive trips as part of their events or fundraising activities. This guidance is available to [download](#) from the Commission's website.

The Commission provides a basic checklist as part of its 'bitesize' fundraising guidance, [Fundraising at a glance: A guide for charity trustees](#), to guide charity trustees in their approach to fundraising. It has also produced the following [thematic reports](#) which highlight concerns around fundraising - [Concerns about charity fundraising](#) and [One hundred lessons to be learned](#). These reports are intended to benefit charity trustees by highlighting common problems and helping charities to get the basics right.

Section 3 Fundraising practice, complaints

While this section is specifically aimed at members of the public, it contains information and examples of poor fundraising practice which charity trustees may find useful. It provides an overview of the standards of practice members of the public expect from charities engaged in fundraising and highlights a range of issues about which they can complain, where fundraising standards have not been met.

3.1 How can the public check that an organisation is a charity?

It is a criminal offence for an organisation to call itself a charity if it is not a charity. The Commission encourages members of the public to check whether an organisation asking for donations and claiming to be a charity is registered with the Commission or appears on the combined list mentioned below. Members of the public should look for or ask for a charity number which indicates that it is registered as a charity with the Commission. Charities registered in England and Wales can be checked on the [online register](#) of the Charity Commission for England and Wales and all charities registered in Scotland can be checked on the online [Scottish Charity Register](#) published by The Office of the Scottish Charity Regulator. Charities registered in the Republic of Ireland can be checked against the Charities Regulatory Authority's online [register of charities](#).

It is compulsory for all organisations which have exclusively charitable purposes and are governed by the law of Northern Ireland to apply for charity registration when called forward by the Commission to do so. If a charity has been registered by the Commission, important information on its charitable purposes, public benefit and who its charity trustees are, can be accessed via our public [register of charities](#).

However, registration in Northern Ireland is still relatively new. The Commission is in the process of building its register by calling forward organisations to register as resources allow. Organisations, waiting to be called forward to register as charities, must ensure that the Commission knows that they exist, so that they can be called forward in due course. Members of the public can check the Commission's combined list, [available to view here](#), to ensure the Commission knows about the organisation and it is prepared to meet its statutory duty to apply for registration. This list also identifies organisations that have been refused charity status and those that are closed.

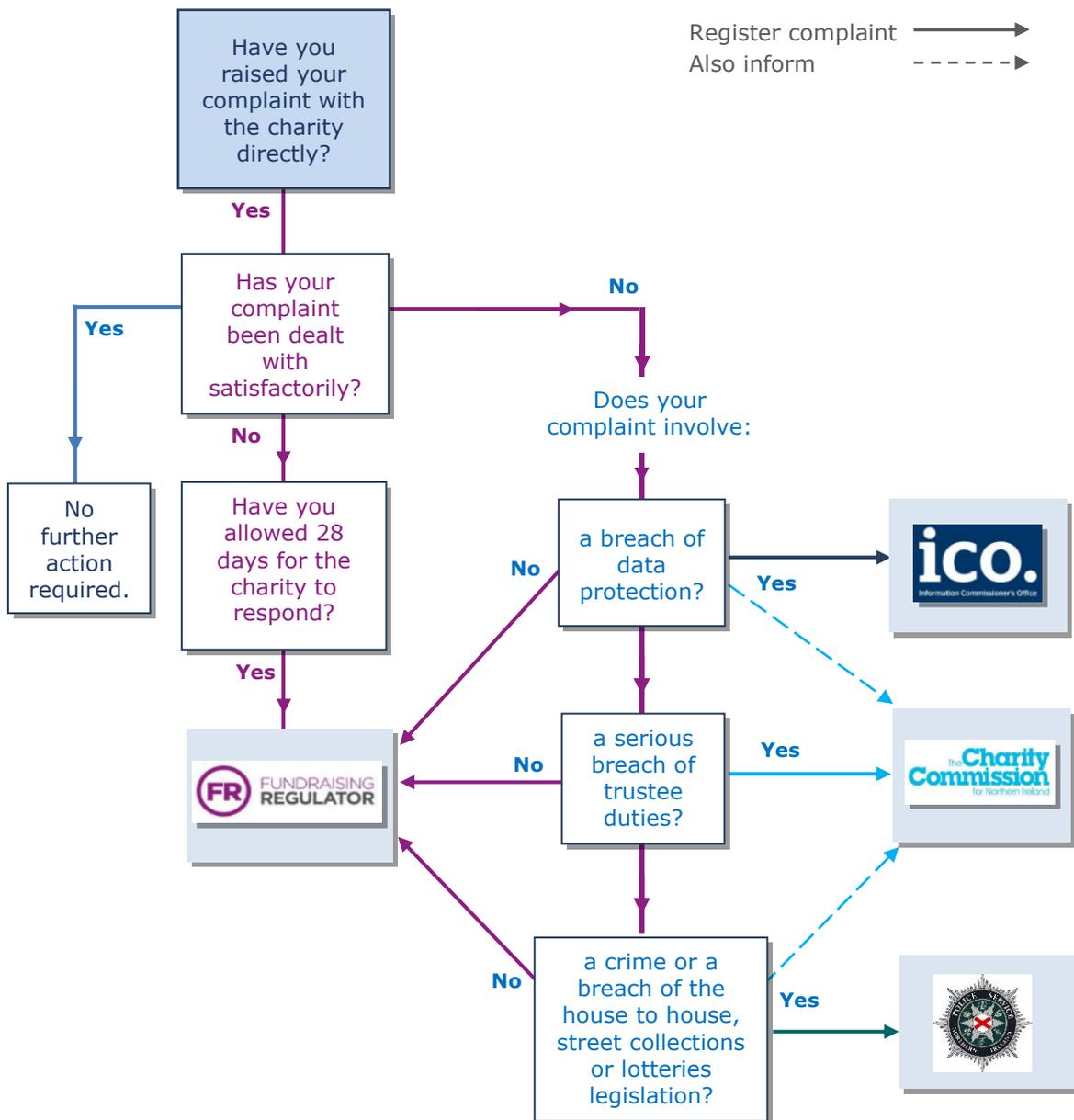
3.2 Who can I complain to?

Members of the public concerned about a fundraising activity, or a charity's approach to donors, should raise their concerns in the first instance, with the charity's trustees. It is important that charities are given the opportunity to address issues as they arise. This can lead to a much quicker resolution for the complainant and limit any potential damage to the charity's reputation. If, after four weeks, the matter has not been resolved satisfactorily the Fundraising Regulator may be contacted. If, due to the nature of the complaint, it is not sufficient to register your complaint with the FR alone, you may register your complaint with one or more of the following statutory bodies:

- The Police Service of Northern Ireland (PSNI)
- The Charity Commission for Northern Ireland (the Commission)
- The Information Commissioner's Office (ICO)

The following flowchart provides a visual overview of the various paths which may be taken by the public in registering a fundraising complaint:

Figure 2: Complaints at a glance



3.3 How do I raise a complaint with the Fundraising Regulator?

For detailed information on how to submit a complaint and the types of complaints that the FR will consider and from whom, see the FR's [Complaints](#).

3.4 The Police Service of Northern Ireland (PSNI)

Where a fundraising activity is falsely promoted as furthering charitable purposes, members of the public should refer their complaint directly to the PSNI. Examples can include, fundraising:

- undertaken by a sham charity, established for illegal purposes
- undertaken by an individual for the purposes of personal gain
- where one or more persons connected with the charity are suspected of being involved in theft or fraud.

The PSNI is also responsible for regulating specific fundraising activities such as, house to house collections, street collections and charitable lotteries. Suspected breaches of the legislation which governs these activities should also be reported to the PSNI. Examples of house to house and street collections which can be reported to the PSNI and the FR can be found at [3.7 What can I complain about](#) below. Further information on relevant legislation is provided in [Section 4](#) of this guidance.

Where an individual or individuals connected to a charity, such as a charity trustee, employee, volunteer or their relative, are involved in criminal fraud or are suspected of deliberately misusing charity resources as part of a fundraising campaign, this is also a matter for the Commission and should be reported directly to the Commission.

3.4.1 How do I raise a complaint with the PSNI?

For legislative breaches in connection with street collections, house to house collections or the unlicensed operation of a charitable lottery, members of the public should report such incidents to their local police station.

[Action Fraud](#) provides a central point of contact for information about fraud and financially motivated internet crime. If a member of the public becomes aware of a charity scam, or is the victim of one, they should [report](#) it. Alternately, they can contact their local police station.

3.5 The Charity Commission for Northern Ireland

The Commission is tasked with increasing public trust and confidence in charities, promoting compliance by charity trustees with their legal

obligations, and promoting and encouraging the effective use of charitable resources.

While the Commission does not have responsibility for the day-to-day regulation of charity fundraising, some reported concerns have included fundraising issues. The Commission's regulatory concern is normally limited to serious or persistent failures in fundraising which may indicate or represent wider governance failures such as misappropriation of funds or non-compliance by charity trustees with their legal duties and responsibilities. For more information on trustee duties and responsibilities see the Commission's [Running your charity](#) guidance.

Many fundraising concerns can be dealt with in the first instance by the charity itself, and as outlined above, if a concern is not satisfactorily addressed by the charity's trustees after four weeks, the concern may be raised with the FR. Where an issue connected to charity fundraising is likely to lead to serious harm or damage to the charity, its beneficiaries or the charitable sector more generally, this should be raised directly with the Commission.

The following examples illustrate the type of fundraising issue which should be raised directly with the Commission.

Example 2: Complaint which should be raised directly with the Commission.

A charity invests in a fundraising campaign which it falsely claims is raising funds to enable the charity to develop a vital service for its beneficiaries.

Having successfully completed the campaign, one or more of the charity's trustees either:

- uses all or a percentage of the proceeds for their own personal gain
- donates the money raised to a political party of their choice, or
- uses the proceeds of the campaign to further a different cause that is incompatible with the organisation's charitable purposes.

All of which would constitute a **breach of trust**.

A legal principle underpinning fundraising is that all funds raised for a particular cause must be used for that particular cause. Charity trustees also have a legal duty to effectively control and protect the assets of the organisation and the resources they use and raise.

Example 3: Complaint which should be raised directly with the Commission.

Charity trustees have set a fundraising target of £20,000 for the charity which will see the charity through a difficult patch. To raise the money they hire a third party fundraiser. The contract with the fundraiser is commission-based, allowing them to retain 50 per cent of all monies raised.

This arrangement is not made clear to any actual or potential charity donors during or after the campaign. The charity trustees have not stipulated any means to be used and do not supervise or restrict the activities of the fundraiser. The fundraiser uses a range of methods to raise the funds. They do not consider the vulnerability of donors being targeted, their right to privacy, or the potential risk of financial consequences to the charity as result of this fundraising practice.

The fundraiser manages to raise just over £40,000, keeping £20,000 and giving £20,000 to the charity.

Charity trustees have a duty to uphold the values of their organisation, safeguard its **assets** and protect its reputation. Charity trustees are in breach of their legal duties when they obtain or accept public money under false pretences, or expose their charity to serious reputational or financial risk.

3.5.1 How do I raise a concern with the Commission?

To raise a concern directly with the Commission, refer to the Commission's guidance: [how to raise a concern about a charity](#).

Occasionally, a concern may be raised with the Commission which is more suited to the role of the FR. In these circumstances, the Commission will normally recommend the complainant contact the FR. Similarly the FR

may ask a complainant to raise their concern directly with the Commission where they feel it is more appropriate to do so. The reason why a member of the public may be asked to register their concern with another body, is to avoid misinterpretation of the original concern by either the Commission or the FR in communications with the other regulator.

3.6 The Information Commissioner

The [Information Commissioner's Office](#) (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. All fundraising that involves recording or taking down personal details is subject to data protection laws. In addition, all fundraising that involves sending marketing messages electronically is subject to the Privacy and Electronic Communications Regulations 2003 (PECR).

Organisations that collect personal information as part of a fundraising campaign should be open about why they are collecting it, only use it in a reasonable way that a member of the public would expect, and should not use it in way that is unfair to the individual. In most cases, charities must obtain consent to contact donors or members of the public when using electronic means for marketing purposes, including fundraising. Data protection rules vary, depending on the method used by the charity to make contact. Further information on direct marketing is provided under [section 3.7.7](#) below. The ICO have also produced comprehensive guidance on [direct marketing](#) to include a [checklist](#) for organisations, which members of the public may find useful as a guide to what they should expect from charities contacting them in relation to fundraising.

Members of the public have the right to stop organisations using their information to send marketing mail, calls, emails and texts. They must be given the opportunity to opt in or opt out of receiving such marketing when providing personal details. The public should also have the opportunity to opt in later, if they change their mind.

3.6.1 What if I have a concern about how my information has been handled?

Members of the public may raise a concern with the ICO if they have received unwanted direct marketing from a charity, have had a problem

accessing their information from a charity or are concerned about how a charity has handled their information as part of a charity fundraising campaign (or more generally).

3.6.2 How do I raise a complaint with the ICO?

Complaints about how a charity has handled personal information should be raised with the charity in the first instance. If, after 28 days, the charity does not deal with the complaint or resolve the matter to the satisfaction of the complainant, they can raise their complaint with the [Fundraising Regulator](#) who will pass relevant concerns to the ICO, or they may wish to raise a concern with the [ICO](#) directly.

Example 4: Concern which should be raised with the ICO

A charity issues an email to its subscribers who have consented to receiving marketing messages via email in relation to its latest fundraising campaign. One individual who has received the email has recently set up a direct debit payment to the charity in support of its work and they decide they no longer want to receive email correspondence from the charity in relation to its fundraising.

The individual clicks the 'Unsubscribe' option contained within the email to opt out of receiving this kind of communication. Several weeks pass and the individual continues to receive marketing emails from the charity in relation to its fundraising campaign, despite having opted out. The individual has the right to complain to the ICO as unwanted marketing information continues to be sent to them after they have asked for it to stop. The individual also has the right to sue for a breach of the regulations if they can prove damages.

3.7 What can I complain about?

Some examples of the types of fundraising practice which the public can complain about are available on the Fundraising Regulator's website. Additional guidance on donor rights and precautions which may be taken prior to donating money or goods is provided below.

3.7.1 What percentage of my donation will go to charity?

Charity donors should be confident that their donation is furthering a charitable purpose and that their trust is not being abused. If a member of the public believes that they have been misled by a charity fundraiser about the purpose of a campaign or in relation to the percentage of the donation that will go to their chosen charity, they can register a complaint.

The Commission would advise anyone donating, to ask how much of the donation is going towards the advancement of the charity's purposes and how much will go to administrative costs. There is no fixed rule about what percentage should go to a charity but this allows donors to make an informed choice before they give.

Example 5: Complaint which the FR can deal with

Following a charity street collection, a member of the public becomes aware that the percentage of their donation to be passed on to the charity is considerably less than they would have expected, amounting to 20 per cent of the total donation. This is not made clear to them by the street collector at the time.

In line with FR recommendations, the donor contacts the charity's trustees in the first instance, to confirm the information and request an explanation. The Charity confirms that the information is correct and that it will continue to use the fundraising agency as a 20 per cent donation is better than nothing at all. The charity trustees state that they acted in good faith, and were not aware that the street collectors had not passed this information on to the public.

The concerned donor is not satisfied that the charity will adequately supervise future fundraising campaigns, or that the fundraising agent will change their practice. They register a complaint with the FR who is able to work with the charity and the fundraising agency to resolve the matter.

The above example demonstrates how important it is for members of the public to satisfy themselves that their donation will be spent as they intended.

3.7.2 House to house collections

Members of the public are often asked to donate cash or goods on the doorstep, from answering the door to someone with a collecting tin, receiving envelopes for cash, to having plastic bags posted through the letterbox asking for donations of goods such as clothes for collection.

Whether an individual decides to give is entirely up to them but it is important to know that not all of the organisations who ask for donations are charities. Some may be collecting on behalf of a charity and some may be businesses who sell your donations for private profit.

Bogus collections cost the charity sector money and are generally characterised by the organisation collecting, implying that it is a charity when it is not or that the proceeds of the collection will go to charity when in fact they benefit a private enterprise or individual.

3.7.3 What are the hallmarks of a legitimate charitable house to house collection?

Where a collection is taken by a commercial house to house collection business for 'charitable purposes' or 'on behalf of a charity', it is best practice for any accompanying documentation to state specifically which charity will benefit and how much of each donation will reach it directly.

The collector should have a formal written agreement with the charity. If in doubt, contact the charity to check that it is aware of the collection and to ensure that it is a legitimate collection. Charities will be happy to provide contact details and confirm whether a collection is being conducted on their behalf or not.

If a charity confirms that an individual has fraudulently collected charity donations in their name, contact the PSNI directly.

House to house clothing collections which benefit a charity require a licence, obtained from the Police Service of Northern Ireland. To check whether a collection has a licence before donating any item you can contact your local PSNI station or they can ask to see a copy of the

collectors licence. Where no licence is found to have been granted, it is important to report details of the collection to the PSNI.

Charities that carry out regular collections across the whole of Northern Ireland, can apply to the Department for Communities for an exemption order. An exemption order excuses an organisation pursuing a charitable purpose from seeking separate licences from each local police station. An exemption order does **not** cover [street collections](#), for which separate permits must be sought from the local PSNI stations in the areas where a street collection is to take place. A list of current exemption holders in Northern Ireland can be found under [further information](#).

3.7.4 Collectors' credentials

Any badges worn by collectors must meet the specifications set out in the House to House Charitable Collections Act (NI) 1952 and the Regulations and must:

- indicate the purpose of the collection
- be signed by the collector and
- worn prominently.

All materials distributed in aid of a collection should show:

- the name and address of the charity
- name and address of the collector
- the place of the collection
- the signature of the collector and the chief promoter of the collection.

Charities registered with the Commission must display their Northern Ireland charity registration number.

Be wary of ID that looks photocopied or home-made and of leaflets without an address or land line telephone number. Where a leaflet or envelope appears to be from a charity, check the contact details. A charity's name could be falsely used.

The Commission provides a basic checklist as part of its fundraising 'bitesize' guidance, [Fundraising at a glance: A guide for members of the public](#), which outlines some of the key issues to consider when giving to charity.

3.7.5 Online giving

Digital fundraising in the form of online giving platforms have been in existence for over a decade and there are now a large number of operators offering a range of services.

Members of the public should be aware that online fundraising or crowdfunding can be set up by anyone wishing to raise funds in this way, including individuals, businesses and charities.

This method of fundraising provides charities with an opportunity to communicate with, and receive funds from, a much wider audience than they would normally be able to access. Although online giving platforms have the potential to provide great benefits for charities and donors, there are some aspects of online giving and crowdfunding that prospective donors need to consider.

3.7.6 What do I need to know about online fundraising?

The public should be clear in the first instance about how much of their donation will actually go to the charity or charitable purpose they wish to support. Online giving platforms and crowdfunding websites vary greatly and they each come with their own terms and conditions and it is common for both to charge a fee for using their service. Fees vary, but often they are a percentage of the money successfully raised towards a fundraising target. The Commission encourages the public to contact the charity if this information is not provided through the online platform or webpage.

Some fundraising campaigns are built on reaching a particular target, for example, the purchase of a critical piece of equipment or travel costs associated with an exchange programme for children and young people. You may wish to clarify with the charity what will happen to the money raised where the fundraising campaign falls short of its target or exceeds it. Contact the charity directly if you are unsure.

The Commission would also encourage donors to be vigilant when responding to high profile campaigns. Fundraising pages set up by individuals seeking support for high profile causes should be able to explain how they propose to distribute the funds they have raised, particularly in circumstances where they have no immediate connection to an event or tragedy. Highly publicised tragic events can also be hijacked

by scammers for personal gain. Bogus charity appeals can direct donors to fake news or websites which, if visited, could infect connected computers and mobile devices with damaging or intrusive software.

Individuals wanting to raise funds for a cause they care about may choose a crowdfunding approach. This may be linked to an event or personal project that they are undertaking which may not necessarily be charitable or it may involve raising charitable funds in response to a tragic event. Individual fundraisers should be aware, however, that an unintended outcome of crowdfunding can be to actually establish a restricted charitable trust, with corresponding legal obligations, such as the requirement to register the charitable trust as a charity with the Commission.

One of the key difficulties for donors responding to a crowdfunding appeal where an individual member of the public is seeking to raise funds, is that it may be difficult to determine how genuine the appeal is. It may also be difficult to verify whether or not funds raised reached the intended cause. Whereas a named registered charity raising funds through an online giving platform is regulated by the Commission and as such is required to submit charity accounts and reports to the Commission on an annual basis, detailing their income and expenditure.

Under new regulations, professional digital fundraising and crowdfunding platforms must register with the [Financial Conduct Authority \(FCA\)](#), which is responsible for their regulation. Working with the FCA, the Fundraising Regulator is also in discussion with a number of online funding platform providers with a view to further developing the Code of Fundraising Practice to include online fundraising standards.

[3.7.7 Fundraising through direct marketing](#)

Direct marketing includes the communication of advertising, or marketing materials sent to donors or members of the public, for the purpose of promoting a charity's purposes, specific charitable activities or to raise funds. This may be received as information via the post, through cold calling, house to house or via the telephone, through email or text messaging. Members of the public have a legal right under the General data Protection regulation (GDPR) to prevent the processing of their personal information for direct marketing purposes. They also have legal rights under the Privacy and Electronic Communications Regulations not

to receive marketing messages electronically that they have not asked to receive.

As outlined in [Section 2](#) of this guidance, the FR is also responsible for managing the [Fundraising Preference Service](#) (FPS). This service is designed to give the public greater control over the communications they receive from charities. A supporting helpline is available to help those who cannot access the service online: 0300 3033 517. By entering relevant details on the FPS website, or by calling the helpline members of the public can choose to stop email, telephone calls, postal and/or text messages directed to them personally from a selected charity or charities.

If, after 28 days, an individual receives further communication from the charity, they can revisit the FPS website and send a 'follow up' request in the first instance. Should the organisation continue to communicate with them, they can [submit a complaint](#) to the FR.

Section 4: Fundraising – regulatory framework

This section is primarily aimed at charity trustees but may also be of interest to donors/funders and the public. It provides an overview of the fundraising regulatory and self-regulatory systems now in operation across the UK and Ireland.

4.1 What has changed and why?

In recent years, public concern about how charities ask for money, has led to a number of critical reviews and inquiries. These reviews and investigations have transformed the way in which fundraising practice is viewed and regulated across the United Kingdom, including Northern Ireland. The most significant change to date being the establishment of the Fundraising Regulator (FR).

4.2 The Fundraising Regulator

The Fundraising Regulator (FR) is an independent body established for the purposes of strengthening the system of charity regulation and restoring public trust and confidence in fundraising. It is tasked with regulating all fundraising by or on behalf of charitable, philanthropic and benevolent organisations in England, Wales and Northern Ireland. Its role is to:

- set and promote the standards for fundraising practice.
- investigate cases where fundraising practices have led to significant public concern.
- adjudicate complaints from the public about fundraising practice, where these cannot be resolved by the charities themselves.
- operate a fundraising preference service to enable individuals to manage their contact with charities.
- where poor fundraising practice is judged to have taken place, recommend best practice guidance and take proportionate remedial action.

Registration is open to a range of organisations including charities, universities, community interest companies and commercial fundraising businesses offering telemarketing or face-to-face fundraising services, online fundraising platforms, payroll giving services, commercial clothing

collection companies, and companies exclusively offering fundraising products, for example, charity Christmas cards.

Intervention by the FR in relation to poor fundraising practice is not limited to charities registered with the FR.

4.2 Voluntary levy and registration

The FR is primarily funded by a [voluntary levy](#) on charities and other fundraising organisations in England and Wales that spend £100,000 or more each year on fundraising. Northern Ireland charities are also being asked to register with the FR and pay the voluntary levy. As charity registration is relatively new to Northern Ireland and detailed information on charity fundraising spend is not currently available, it is not possible to determine exactly how many charities in Northern Ireland spend over £100,000 on fundraising. Fundraising expenditure includes *“anything a charity spends on fundraising activity, except marketing and charity trading expenditure”*.

The Commission has introduced a question on charity fundraising spend to its Annual Monitoring Return 2018 which will, in time, provide a clearer picture of those charities which should pay the voluntary levy. In the interim, the FR has compiled a list of registered charities with an income of over £1million and will contact these organisations to ask them to declare if their fundraising spend is over the threshold.

Based on information held by both the Commission and NICVA on income levels for charities in Northern Ireland, the majority of charities are likely to fall below the voluntary levy threshold, and will be encouraged to [register directly](#) with the FR at a cost of £50 per annum, as applicable. Registration opens to charities in Northern Ireland in February 2018.

Where the voluntary levy is payable this is inclusive of the registration charge. Once this payment has been made the charity will be registered. The FR has recently appointed a NI Board member to represent the interests of NI charities.

All charities should adhere to the standards set out in the Code of Fundraising Practice and comply with relevant legislation, as appropriate. The Commission encourages all charities that undertake or coordinate regular or substantive fundraising activities, to register with the Fundraising Regulator as a sign of their commitment to good fundraising

practice. Charities that rely mainly on government or contract funding, or that undertake small scale fundraising, are not expected to register with the FR.

Registration includes access to guidance and support relating to good fundraising practice and complaints management, a registration pack, entry on the FR's public register and a registration badge, which may be used to promote the charity's commitment to high fundraising standards.

4.3 What is the Fundraising Promise?

By registering with the FR, charities make a public commitment to implement high standards of fundraising practice and to being clear, honest, open, respectful and reasonable in their engagement with donors and members of the public, as set out in the [Fundraising Promise](#).

4.4 What will the Fundraising Regulator deal with?

The types of fundraising complaint the FR will deal with include complaints about:

- How a charity collects or **solicits** property, money or the promise of money from people. This may include, misleading or excessive requests by post, over the telephone, face to face on the street or at the door.
- A charity's relationship with donors. This may include disrespectful, misleading or otherwise unreasonable engagement once a charity has gained an individual's support.
- How a charity works with others to raise money. This may include instances where the relationship between a third party working on a charity's behalf and the charity is not made sufficiently clear. For instance, the methods used by a third party to raise funds on behalf of the charity or how payment for services is calculated and whether this is made clear to donors and members of the public.
- A fundraising charity's complaints-handling process. For example, a complainant may not have been treated with due courtesy or respect, or not received a response to a fundraising concern within four weeks of the complaint being made.
- Issues related to the management of an individual's contact preferences with a fundraising charity. This may include instances

where an individual has been contacted by a particular charity despite their express wish that this should not happen.

Example 6: Complaint that FR has dealt with

Charity fundraisers visit a sheltered housing unit. On further investigation the FR finds clear indicators at the site that vulnerable tenants live there. The FR concludes that the charity's fundraisers should have taken note of those indicators in order to determine whether it was appropriate to approach residents for donations at the location.

For the FR this case demonstrates the importance of fundraisers remaining vigilant to any potential signs of vulnerability, such as youth, age, infirmity, disability or poverty and conducting a more detailed assessment of all information available at a potential fundraising site before approaching residents for donations.

4.5 Police Service of Northern Ireland (PSNI)

Charity fundraising across the UK is subject to a complex mix of legislation and self-regulation. As well as oversight by the FR, charity fundraising is also subject to the following legislation, regulated by the PSNI:

- [Betting, Gaming, Lotteries and Amusements \(NI\) Order 1985](#) as amended by the [Lotteries Regulations \(NI\) 1987](#) and [1994](#)
- [Police, Factories, & c. \(Miscellaneous Provisions\) Act 1916](#)
- [House to House Charitable Collections Act \(Northern Ireland\) 1952](#) and associated regulations.

Charities wishing to collect money or other property door to door (including the use of envelopes or black bags) in one or more areas of Northern Ireland must obtain permission by applying to the Police Service of Northern Ireland (PSNI). Where regular collections are to be carried out across Northern Ireland, organisations may apply to the Department for Communities [Charities Team](#), for an exemption order. Further information is available in [section 3.7.3](#) above.

House to house collections include visits to public houses, factories and offices to collect money or to sell things on the basis that part of the

proceeds will go to a charity. Licences for house to house collections are also issued by the PSNI and an application form can be obtained from the local PSNI station in the area where the collections are to be made.

The legislation on lotteries makes provision for the registration and running of small, private and societies' lotteries. Lotteries in Northern Ireland are regulated by the PSNI. A society's lottery must be registered with the district council in whose area the charity's office or head office is situated. Northern Ireland lotteries legislation places a number of specific restrictions on this method of fundraising. Further information on Lotteries and the law and in particular, societies' lotteries, is outlined in [information leaflet SL4](#), produced by the Department for Communities.

4.6 Charity Commission for Northern Ireland

The Charities Act (Northern Ireland) 2008, which establishes the Charity Commission for Northern Ireland, has several provisions relating to fundraising, but not all are currently in operation.

The Commission has a statutory duty to identify and investigate misconduct or mismanagement in the administration of charities. In doing so, the Commission's objective is to stop any abuse or damage and, where something has gone wrong, to take remedial action, protecting the charity, its assets, its beneficiaries, and its reputation. In certain circumstances, where the FR has evidence of fundraising practices that, in addition to being in breach of the Code, raise concerns about a breach of trustee duties, information may be shared by the FR with the Charity Commission for Northern Ireland.

The Commission will typically get involved in a concern about a charity's fundraising only where there are serious issues such as:

- a serious breach of trust by the charity's trustees
- damage to public trust and confidence in the charity or the sector
- harm to the charity's beneficiaries
- mismanagement or misconduct by the charity's trustees in the administration of their charity
- misappropriation of a charity's funds.

Breaches of trust or duty of care can take various forms and in serious cases it may mean that the charity trustees are **personally** liable for any debts or losses sustained by the charity as a result of their actions.

Example 7: Complaint which may be shared with the Commission

One example of a complaint raised with the FR which may involve the regulator sharing information with the Commission is where a charity repeatedly uses open collection buckets and these are returned to one individual within the charity. There are no witnesses as to monies counted and submitted and this practice is contrary to advice already given by the Fundraising Regulator.

The Code of Fundraising Practice, [Handling donations](#), provides best practice guidance on collecting, banking and recording cash donations. Charity trustees who repeatedly fail to adhere to the Code are failing in their fiduciary duty to act in the best interests of the charity, by failing to safeguard the charity's assets and reputation. The Commission may take action where non-compliance is identified. This action can take a variety of forms:

- Conducting a visit to the charity
- Conducting an investigation
- Issuing self-regulatory or regulatory guidance
- Referring the organisation to another authority or regulator
- Notifying the public through the register of charities or reports on our website.

In its decision making, and in communicating its decisions, the Commission will have regard to the principles of best regulatory practice. We aim to ensure that decisions are made impartially and are proportionate, accountable, consistent and transparent. Regulatory action will be targeted only at cases where intervention is needed. Additionally, the Commission is aware that many charities are run by volunteers and will be mindful of its general duties as set out in section 9 of the Charities Act which includes the encouragement of charitable giving and voluntary participation in charity work.

4.7 Information Commissioner's Office (ICO)

On 25 May 2018 the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA 2018) came into operation. The GDPR is designed to harmonise data protection legislation across the European Union (EU) and continues to apply after the UK leaves the EU. In addition to new data protection provisions outlined in the DPA 2018, the Act also provides clarity on how certain provisions within the GDPR apply to the UK. For this reason they should be read alongside one another.

These changes bring new requirements for how organisations, including charities, process **personal data** across all functions of their organisation to include charity fundraising. The word 'process' covers everything to do with personal data from its collection to its disposal.

Data protection legislation covers everyone about whom you keep personal data. This includes employees, volunteers, service users, members, supporters and donors. The legislation:

- requires organisations to register as a **data controller** with the ICO if they process personal information electronically, including using computers or any system that can process information automatically, for example, CCTV systems, digital cameras, smartphones, credit card machines and call logging and recording systems. Most not for profit organisations, including charities are exempt from registering as a data controller with the ICO but this does not mean that they are exempt from complying with data protection legislation.
- governs the processing of personal data including 'sensitive personal data', such as information on someone's race or religious beliefs. Under GDPR sensitive personal data is renamed to 'special category' data.
- requires organisations to comply with seven **data protection principles**, which change slightly under GDPR, and
- allows employees, service users and other contacts to request sight of the personal data held relating to them, among other rights.

Data protection principles apply to **all** organisations which process personal data, regardless of size or income and regardless of how they record and store personal information, including paper records.

GDPR enhances the rights and preferences of members of the public in relation to how their personal data is held and processed by

organisations, including charities. It is an opportunity for charity trustees to review and strengthen their charity's information management systems and procedures to the benefit of key stakeholders.

Under GDPR, organisations must be able to clearly demonstrate their compliance as part of the new 'accountability' principle. To do this they will need to be able to document the personal data they hold, where it came from, and who it is shared with, among other things.

GDPR also introduces fundamental changes to the responsibilities both for organisations that decide the manner and purpose of how personal data is processed (**data controllers**) and for organisations that process personal data under their instructions (**data processors**) and their sub-processors. For example, a charity may instruct an email service provider to issue marketing communication via email as part of its fundraising strategy. In this case, the charity would be the data controller and the email service provider would be the data processor. Under GDPR, the charity must have a written contract in place with the email service provider (and any other any data processors the charity uses) covering all areas of data protection. Charity trustees must consider how this requirement will impact on current and future contracts with such data processors.

The ICO also regulates the Privacy and Electronic Communications Regulations 2003 (PECR) in relation to marketing messages sent electronically. More information on these regulations can be found in the ICO's [Guide to PECR](#). The current regulations will eventually be replaced by a new [ePrivacy Regulation](#) but there is no timescale as yet for its implementation. Charities should be aware of the development of this new Regulation and how it will change privacy rights in relation to electronic marketing.

4.8 Is there any guidance on the GDPR?

The ICO has produced a range of general guidance and [self-assessment tools](#) to help organisations understand their obligations under GDPR. Their [Guide to GDPR](#) explains the provisions of this Regulation to help organisations comply with its requirements. This guidance also includes links to relevant sections of the GDPR itself, to other ICO guidance and to guidance produced by the European Union's **Article 29 Working Party**.

The ICO has produced a package of tools aimed at small and micro organisations, including [charities](#). NICVA has also produced a [Data protection toolkit](#), which is available on its website.

The National Council for Voluntary Organisations (NCVO) in their [how to prepare for GDPR](#) guidance, adapted the ICO's 12 Steps plan specifically for charities. The Charity Finance Group also produced free GDPR guidance specifically aimed at charity trustees, [General Data Protection Regulation: A guide for charity trustees](#).

The FR also produced a range of guidance designed to support charity trustees to:

- address certain data protection obligations in respect of fundraising
- better understand whether they hold consent to send direct marketing communications to an individual
- determine where the risks lie in any existing direct marketing approach.

The Fundraising Regulator's *Personal Information and Fundraising: Consent, Purpose and Transparency* [Guidance and Self-assessment Tool](#) are intended to be read alongside the ICO's [Privacy Notices Code of Practice](#) and [Direct Marketing Guidance](#) and associated guidance and law regarding the use of data. In partnership with the Institute of Fundraising (IoF), the FR also produced a series of [GDPR and Charitable Fundraising Guidance Briefings](#). The FR has also produced [Guidance for Fundraising Platforms](#) and [Online Fundraising advice and guidance for the public](#).

Further guidance in relation to GDPR and fundraising is listed under [Section 2.8. Key support and learning](#).

4.8 What does fundraising regulation look like in other jurisdictions?

Systems of fundraising self-regulation differ across the UK and Ireland depending on where a charity is registered:

- While the FR is responsible for self-regulation in England, Wales and Northern Ireland, fundraising undertaken by charities registered in England and Wales is subject to additional legislative provisions under the [Charities \(Protection and Social Investment\) Act 2016](#).

- Fundraising by charities only registered in Scotland is subject to Scottish charity law and the Scottish system of self-regulated fundraising through the [Scottish Fundraising Standards Panel](#).
- Fundraising undertaken by charities registered in England and Wales and in Scotland, but where the lead regulator for the charity is the Charity Commission for England and Wales, is regulated by the FR.
- In September 2017 the [Charities Regulatory Authority](#) (CRA) which is the statutory independent authority for the regulation and protection of charitable trusts and organisations (charities), in the Republic of Ireland, launched its [Guidelines for charitable organisations on fundraising from the public](#).

4.9 What about other Regulators

Charity trustees are responsible for upholding their charity's values and protecting its reputation. All organisations, including charities, must ensure that their fundraising campaigns and materials are not misleading, harmful, offensive or irresponsible. The [Advertising Standards Authority](#) (ASA) is the independent advertising regulator for the United Kingdom (UK) which responds to complaints from consumers and businesses to ensure advertising across UK media complies with the relevant standards.

Glossary

Term	Definition
Article 29 Working Party	The Article 29 Working Party (Art. 29 WP) is an advisory body made up of a representative from the data protection authority of each EU Member State, the European Data Protection Supervisor and the European Commission. The Information Commissioner's Office is the UK representative.
Assets	Assets can include, cash, investments, land and buildings stocks and shares or an intangible asset such as patents, copyrights, trademarks or licences.
Breach of trust	Any abuse of power, or failure (whether or not it is deliberate, dishonest, or negligent) to carry out the specific, general and fiduciary duties of a trustee. For charity trustees these duties may be found in the provisions of a charity's governing document, legislation regulations and orders of the Court or the Commission.
Charities Act (Northern Ireland) 2008	<p>The Charities Act (Northern Ireland) 2008 is the main piece of legislation establishing the Charity Commission for Northern Ireland and setting out its functions and powers</p> <p>References to 'the Charities Act' are to the Charities Act (Northern Ireland) 2008 (as amended). The full content of the 2008 Charities Act can be found at www.legislation.gov.uk</p> <p>Not all of the sections of the Charities Act are in force yet. Details of those sections that are in force are available on the Commission's website www.charitycommissionni.org.uk</p>
Charitable purposes	<p>The purposes of a charity will usually be defined by what its governing document says that it is set up to do.</p> <p>According to the Charities Act, all the organisation's purposes must:</p>

	<ul style="list-style-type: none"> • fall under one or more of the list of 12 descriptions of charitable purposes in the Charities Act <p>and</p> <ul style="list-style-type: none"> • be for the public benefit.
Code of Fundraising Practice	The Code of Fundraising Practice and its associated Rulebooks for Street and Door Fundraising outline the standards expected of all charitable fundraising organisations across the UK.
Data controller	Under the GDPR, a data controller is the natural or legal person, public authority, agency or other body which alone or jointly with others, determines the purposes and means of the processing of personal data. The determining factor therefore is control, rather than possession. The data controller is the person (or organisation) that decides why and how personal data is processed. They control the data but do not necessarily store or process it, although they are responsible for how it is used, stored and deleted.
Data processor	Under GDPR a data processor is the natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller. This can include storing data on a third party server, but also includes for example payroll companies, accountants and market research businesses.
Duty of care	All charity trustees have a duty of care towards their charity. A charity trustee is expected to use his or her knowledge and experience reasonably and in the interests of the charity. If they do so, they are unlikely to breach charity law. Where a charity trustee has professional or business expertise then he or she is expected to make use of this in running the charity.
Fundraising practice	The act of raising money by requesting gifts, donations, pledges, sponsorship, or legacies including land or property, by directly or indirectly engaging with members of the public and

	organisations such as trusts, foundations or private corporations, through a fundraising activity or professional fundraiser. This can include, face to face, or contact via telephone, text, postal services, advertising, social media or the internet.
Fundraising Regulator	The Fundraising Regulator is the independent regulator of charitable fundraising, established to strengthen the system of charity regulation and restore public trust in fundraising.
General Data Protection Regulation (GDPR)	The EU General Data Protection Regulation (GDPR) replaces the Data Protection Directive 95/46/EC and is designed to harmonize data privacy laws across Europe, to protect data privacy, empower citizens and to reshape the way organisations approach data privacy. The GDPR came into operation on 25 May 2018. The UK's decision to leave the EU does not affect the commencement of the GDPR.
Legal basis	<p>In the context of data protection, organisations need to identify a legal basis in order to lawfully process personal data. It is important that organisations determine their legal basis for processing personal data and document it.</p> <p>Examples of a legal basis to process personal data include having consent, to perform a contract with that individual or someone else, or needing to protect the vital interests of that individual or someone else.</p>
Personal data	Personal data is any information relating to a natural person which distinguishes them from other individuals, and which on its own or in combination with other information, directly or indirectly identifies that person. For example an online identifier (IP address), may be regarded as personal data.
Privacy and Electronic Communications Regulations 2003	<p>These regulations apply to sending unsolicited marketing messages electronically such as by telephone, fax, email and text.</p> <p>The European Commission's proposal for a new Regulation on Privacy and Electronic</p>

	Communications (‘ePrivacy Regulation’) is likely to replace PECR in the future.
Solicit	In the context of fundraising to solicit means to ask for money, information support or help from an individual or organization.

Useful contacts

Below is a list of contacts which you may find useful.

ActionFraud	www.actionfraud.police.uk
Advertising Standards Authority	www.asa.org.uk
Charities Regulatory Authority (CRA) Ireland	www.charitiesregulatoryauthority.ie
Charity Commission for England and Wales (CCEW)	www.gov.uk/government/organisations/charity
Department for Communities – Charities Team	www.communities-ni.gov.uk/contacts/charities-team
Fraud Advisory Panel	www.fraudadvisorypanel.org
HM Revenue and Customs (HMRC)	www.gov.uk/charities-and-tax
Information Commissioner’s Office	www.ico.org.uk
Institute of Fundraising	www.institute-of-fundraising.org.uk/home
Northern Ireland Council for Voluntary Action (NICVA)	www.nicva.org
Office of the Scottish Charity Regulator	www.oscr.org.uk
Police Service of Northern Ireland	www.psni.police.uk
The Charity Finance Group	www.cfg.org.uk
The Fundraising Regulator	www.fundraisingregulator.org.uk

Useful links and guidance

ATOL Guidance for charities and fundraisers

Code of Fundraising practice

Commission's combined list

Department for Communities - House to house charitable collections - exemption orders

Fundraising Regulator - GDPR and Charitable Fundraising Guidance Briefings

Fundraising Preference Service

Information Commissioner's Office – charity guidance

NICVA - Charity collections

The Revised Code of Good Governance

CCNI EG024 Running your charity

CCNI EG042 Monitoring and compliance guidance – getting it right

CCNI EG059 Serious Incident Reporting – a guide for charity trustees

CCNI EG045 How to raise a concern about a charity

CCNI Thematic Report: Concerns about charity fundraising

CCNI Thematic report: One hundred lessons to be learned

CCNI EG026 Requesting a scheme

Other sources of information

HMRC – charities and tax

Betting, Gaming, Lotteries and Amusements (NI) Order 1985

Lotteries Regulations (NI) 1987 and 1994

Police, Factories, & c. (Miscellaneous Provisions) Act 1916

House to House Charitable Collections Act (Northern Ireland) 1952

Northern Ireland Fundraising Regulation Working Group

If you are dissatisfied with our service

The Commission is committed to delivering a quality service at all times. However, we know that sometimes things can go wrong. If you are dissatisfied with the service you have received, we would like to hear from you, and have a procedure that you can use. You will find further information on these processes in our guidance, *Making a complaint about our services*, which is on our website www.charitycommissionni.org.uk

Freedom of information and data protection

Data Protection

The Charity Commission for Northern Ireland is responsible for registering, regulating and reporting on the charity sector in Northern Ireland. As the charity regulator, we are lawfully required to collect and process personal data in order to achieve our statutory objectives, functions and general duties.

Any personal data you give us will be held securely and in accordance with data protection rules and principles. Your personal details will be treated as private and confidential, and will only be retained for as long as is necessary in line with our [retention policy](#). The information will be safeguarded and will not be disclosed to anyone not connected to the Charity Commission for Northern Ireland unless:

- you have agreed to its release,
- the Commission is legally bound to disclose the information
- the Commission regards disclosure as necessary in order to properly carry out its statutory functions

The Commission may also disclose information or personal data to other relevant public authorities where it is lawful to do so and where, for the purposes of national security, law enforcement, or other issues of overriding public interest, such disclosure is necessary.

We will ensure that any disclosure made for this purpose is lawful, fair, considers your right to privacy and is made only to serve the Commission's statutory objectives as a regulator.

When you provide the Charity Commission with information used to carry out its functions, you are obliged to comply with section 25 of the *Charities Act (Northern Ireland) 2008* which means that it is an offence to provide information which is false or misleading. In respect of your personal data we expect any data which you give us to be truthful, accurate and up-to-date.

For further information, you may wish to read the Commission's [Privacy notice](#) which details what to expect when the Commission collects and

processes personal information, including your rights in relation to that processing if we hold your information.

Freedom of Information

The Freedom of Information Act 2000 gives members of the public the right to know about and request information that we hold. This includes information received from third parties. If information is requested under the Freedom of Information Act we will release it, unless there are relevant exemptions. We may choose to consult with you first. If you think that information you are providing may be exempt from release if requested, please let us know.

Further information on our activities is available from:

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