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New legal requirements relating to charity fundraising

New requirements relating to charity fundraising, brought in by the Charities (Protection and Social Investment) Act 2016, came in to force as of 1 November 2016.

The new rules require charities to:

- include additional provisions relating to fundraising in agreements with professional fundraisers or commercial participators
- where the charity is legally required to have its accounts audited, include extra information about fundraising in the trustees' annual report

Agreements with professional fundraisers or commercial participators

Where a charity uses a professional fundraiser or commercial participator to raise funds, there is already a legal requirement for the relationship to be governed by a written agreement containing specific provisions.

The new rules require these agreements to include additional provisions relating to fundraising, broadly covering:

- details of any voluntary regulatory fundraising scheme or standard that the commercial organisation undertakes to be bound by
- how the commercial organisation will protect the public from unreasonable intrusion of a person's privacy, unreasonably persistent approaches or undue pressure to give
- how compliance with the agreement will be monitored by the charity

Accordingly, the new rules effectively require charities to monitor the activities of professional fundraisers and commercial participators.

The new Fundraising Regulator has stated that it will take a flexible approach in its expectations of updated agreements, until March 2017, to allow the sector to adapt to the changes. The Regulator expects all existing agreements to be compliant from then on, irrespective of when signed.

Trustees' annual report

Where a charity is required by law to have its accounts audited, it must now include additional information about fundraising in the trustees' annual report, broadly covering:

- its approach to fundraising
- its work with, and oversight of, any commercial participators/professional fundraisers
- details of how the charity's fundraising conforms to any recognised standards
- how the charity monitors fundraising carried out on its behalf

- fundraising complaints
- what the charity has done to protect the public, including vulnerable people, from unreasonably intrusive or persistent fundraising approaches, and undue pressure to donate.

The new reporting requirements apply to accounting periods beginning on or after 1 November 2016.

Further information

The Charity Commission has produced guidance on the new rules and the Fundraising Regulator has produced a helpful set of FAQs, including examples of behaviour that the rules are designed to protect against. The rules can be seen in full at legislation.gov.uk.

Fundraising under a spotlight

As those involved with charity fundraising will know, these requirements are part of a wider trend of more robust regulation in relation to fundraising. Over the last year or two, the Charity Commission and the Information Commissioner's Office have toughened their stance on fundraising, direct marketing and data protection following critical media coverage of practices in the sector. The Fundraising Regulator has also emerged and we expect a tranche of new guidance in this area over the coming months and into next year.

The Charity Commission is clear that it expects trustees to be directly engaged with the charity's fundraising strategy and practice. The regulators are placing increased focus on fundraising and organisations will need to match that focus in order to ensure compliance.

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