



Chartered
Institute of
Fundraising

TREATING DONORS FAIRLY

Responding to the needs of people in vulnerable circumstances



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INTRODUCTION

Charitable fundraising should be a positive experience for all, built on the shared values between charities and supporters. Through engaging the public in the work of charities, fundraising gives people the opportunity to support causes they care about, inspiring them to make a difference for communities and causes at home and abroad.



Excellent fundraising also has a beneficial impact on supporters themselves leading them to find out more about issues, connecting them with others, inspiring them to volunteer, as well as making them feel positive. This includes people who have used, or continue to use, a charity's services. While charities will want to be sure that they fundraise with people who use their services in a sensitive and appropriate way, the act of donating can be empowering and a way for people who have benefited from a charity to give something back.



As fundraisers go about their work, putting on events, reaching out to new supporters, planning activities and communications, it is inevitable that they will be in contact with people who may be in a vulnerable circumstance or need additional support on making a decision about any donation. This guide will help fundraisers respond appropriately in those situations, giving the most positive experience and support to everyone.



We want to help fundraisers be in the best position to empower supporters to make informed decisions. It is not about judging people, but is instead focused on how the fundraiser can best respond in an inclusive, fair, and informed way.



This guide is not intended to be a manual which can provide a 'yes or no' answer for every situation, but instead offers a framework to help fundraisers think through their approach. Where we make suggestions about potential actions to take, these are not intended to be prescriptive and to be automatically used in every case. Instead they are ideas about what could be appropriate actions or steps, to be interpreted in line with your organisation's values and approach, as well as through the common-sense judgment of fundraisers.

There will be times when it is difficult for fundraisers to decide on the appropriate steps to take or 'what the right thing to do' is. Our aim is to provide fundraisers with the skills and awareness to develop appropriate responses and respond to the needs of supporters.

By providing the best experience for supporters you will be raising their levels of satisfaction, confidence and trust in your work. As well as being the right thing to do, it will also be in the best interests of your organisation, enhancing your reputation and encouraging longer-term support.



Treating donors fairly – our approach



Every donor is an individual with a unique background, experience, and circumstance and every interaction between a fundraiser and donor is different. People are much more than any one particular characteristic (for example, age, disability, or medical condition). It would not be right to have an approach which advocates treating some groups of individuals differently based solely on any such characteristic as this could lead to discriminatory practice. Treating donors fairly means that everyone should have the opportunity to donate if they want to do so, and that they are responded to on the basis of their needs and preferences as an individual so they can make an informed decision. This means that people, even if they are in a vulnerable circumstance, can choose to support a charity and make a donation.



However, there are times when fundraisers shouldn't make an ask for a donation or when a donor needs additional care and support to make an informed decision.

Our aim is to provide a foundation of knowledge and awareness which enables fundraisers to respond appropriately to people in vulnerable circumstances, putting the needs of the individual first, above and beyond securing a donation.



Four key principles underpin our approach



Being respectful

This means being mindful of and sensitive to any particular need that a donor may have. It also means striving to respect the wishes and preferences of the donor.

Being responsive

Fundraisers need to be ready to adapt their approach and be flexible to meet the needs of individuals. It also means being prepared to ask questions or take additional steps when necessary.

Being fair

Fundraisers should not make decisions based solely on a particular characteristics such as a person's appearance, the way they talk, any medical condition, or disability. Fairness means responding to people as individuals.

Being accountable

Fundraisers should take responsibility for their actions, ensuring that their work is carried out in line with the Code of Fundraising Practice.¹ Consider what processes and procedures are needed and be prepared to explain your decisions and approach.

1 See: <https://www.fundraisingregulator.org.uk/code>

The Chartered Institute's Competence Framework



The **Competence Framework** has been developed by the Chartered Institute of Fundraising as a resource to help fundraisers develop their skills, knowledge, behaviours, and practices.² The competencies covered include themes such as 'Leadership' and 'Building relationships', which are then broken down into smaller areas, such as 'Decision making' or 'Delivering experiences that enhance supporter and stakeholder experience', as well as behaviours and attitudes such as 'Compassion' or 'Empathy'. Through a tiered approach which shows how fundraisers can progress their understanding and responsibility in each area, the Competence Framework is a valuable resource for fundraisers to improve their practice and develop their professional skills.

The Key Competence Framework areas that are covered in this guide are:

Knowledge and skills

2.1 Building Effective relationships with supporters

5.4 Developing an impactful supporter journey

3.2 Decision Making

10.2 Compliance

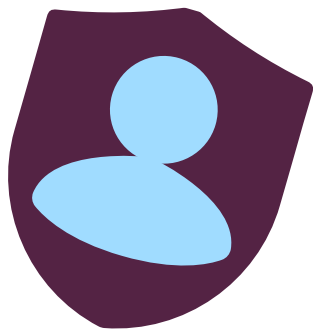
Behaviours and attitudes

Empathetic, Compassionate, Inclusive

Ethical, Responsive

² Visit: <https://ciof.org.uk/learn-and-develop/career-development/competency-framework>

WHAT DO THE RULES SAY?



The Code of Fundraising Practice

The rules for fundraising are set out in the Code of Fundraising Practice, which includes relevant legal requirements as well as the standards set by the Fundraising Regulator.³ The Code of Fundraising practice sets the standards for fundraising all across the UK. In Scotland, it is used by the Scottish Fundraising Standards Panel to assess complaints.⁴ We encourage all fundraisers to regularly review the Code of Fundraising Practice to ensure that all their fundraising activity is compliant with the standards it sets out. There are specific rules on fundraising and vulnerability within section 1.3 of the Code (as detailed below).

Code of Fundraising Practice – standards relating to vulnerability

1.3.5.

Your fundraising⁵ **must** meet equality law as it applies in England, Wales, Scotland and Northern Ireland. You **must not** discriminate against people with characteristics protected under the law of these countries. You can get more information from the Equality and Human Rights Commission⁶ and the Equality Commission for Northern Ireland.⁷

1.3.6.

You must take all reasonable steps to treat a donor fairly, so that they can make an informed decision about any donation.

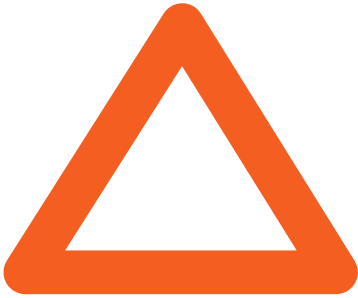
3 Visit: <https://www.fundraisingregulator.org.uk/>

4 See: <https://www.goodfundraising.scot/>

5 See : <https://www.fundraisingregulator.org.uk/code/all-fundraising/behaviour-when-fundraising>

6 Visit: <https://www.equalityhumanrights.com/en>

7 Visit: <https://www.equalityni.org/Home>



1.3.7.

You must take into account the needs of any possible donor who may be in vulnerable circumstances or need extra care and support to make an informed decision.

1.3.8.

You must not exploit the trust, lack of knowledge, apparent need for care and support or vulnerable circumstance of any donor at any time.



1.3.9.

You must not take a donation if you know, or have good reason to believe, that a person lacks capacity to make a decision to donate, or is in vulnerable circumstances which mean they may not be able to make an informed decision. Among other things, you should consider:

- any physical or mental-health condition the person may have;
- any disability the person may have;
- any learning difficulties the person may have;
- whether the person is facing times of stress or anxiety (for example, following the death of a loved one or redundancy);
- whether a donation is likely to affect the person's ability to sufficiently care for themselves or leave them in financial hardship;
- how well the person can communicate and understand what they are being told;
- whether the person is under the influence of alcohol or drugs; and
- the person's age.



1.3.10.

If a donor makes a donation while they do not have the capacity to make an informed decision, you must return the money to them.



Charities Act 2016 requirements

In addition to the standards for fundraising set in the Code of Fundraising Practice, there are additional legal requirements on this area for charities registered with the Charity Commission for England and Wales brought in by the Charities (Protection and Social Investment) Act 2016.

Under the Charities Act 2016, written agreements with professional fundraisers and other commercial third parties must include information on:

- Any fundraising standards that the commercial organisation has committed to be bound by.
- How the commercial organisation will protect people in vulnerable circumstances and others from unreasonable intrusion into their privacy, unreasonably persistent approaches or undue pressure to donate to the charity.
- The arrangements in place that will enable the charity to monitor compliance with the requirements in the agreement.

It also requires charities to include a statement in their annual report which sets out:

- Whether a professional fundraiser carried out any fundraising activities.
- Whether that professional fundraiser is bound by a voluntary or regulatory scheme for fundraising, and any failures to comply with that scheme.
- Whether the charity monitored the activity carried out by professional fundraisers and how.
- The number of complaints that have been received about fundraising activity.
- What the charity has done to protect vulnerable people as part of its fundraising activities.

MENTAL CAPACITY AND VULNERABLE CIRCUMSTANCES

There is an important distinction between whether an individual lacks capacity to make a decision, or simply needs more information and support to be able to make a decision to donate. Fundraisers need to be aware of this difference so that they can make a reasoned judgment and act appropriately when dealing with existing or potential donors.



Mental capacity to make a decision

Mental capacity is the ability to make a decision. Decisions can range from everyday decisions such as what to have for lunch, to more significant decisions such as buying a house. There is a presumption that a person has capacity unless it is established that he or she lacks capacity. It is important to note that what some people may regard as an unwise decision is different from that person not having capacity to make that decision.

Making a formal mental capacity assessment is something that the vast majority of fundraisers will be unable to do as it requires specialist training. Rather than making a decision on an individual's capacity, fundraisers should focus on their own actions and behaviour in any interaction to ensure that they are responding appropriately.

If a fundraiser is concerned that someone may not have mental capacity to make a decision, then you should speak to the person, ask about any support requirements they have, and take extra steps to provide any further information in a way that best suits the individual.

A fundraiser should not ask for a donation if there is a reasonable belief that an individual is unable to make a decision, and could pause or refuse a donation that has been offered. If the donation has already been made and at the time of donating the individual lacked capacity (and the charity receives evidence of this), the gift will be invalid, and the charity must return that donation.

It is important to recognise the distinction between an individual lacking the mental capacity to make a decision (as defined under the Mental Capacity Act 2005), and someone who has the capacity to make a decision but may otherwise be vulnerable or be in a vulnerable circumstance at that moment in time. This is not straightforward and will depend on how a condition impacts the individual. For example, someone may have a mild form of dementia which means that they do have capacity for most financial decisions, but might need additional support in making that decision. However, another individual may be more severely impacted with their ability to make financial decisions severely compromised. While both situations require a fundraiser to respond appropriately, the fact that issues around mental capacity has a legal context is something fundraisers need to be mindful of.



Useful information on issues around vulnerability, capacity, and best practice in responding in an inclusive way is available from a range of charities including Alzheimer's Society, Dementia UK, Mencap, and Age UK.

Vulnerable circumstances

All individuals may, at some stage in their life, be vulnerable or require additional care and support, depending on their own personal circumstances, health, bereavements, life events and more. These factors could affect people differently and for different periods of time. For instance, an individual could manage a family bereavement without obvious long-term distress, whilst somebody else may need more substantial support for a prolonged period of time.

An individual who may need additional care and support, or is in a vulnerable circumstance, can still have capacity to choose to donate to a charity.

What is relevant is the context and circumstance that they are in at the time of making the decision about whether to donate. For example, a recently bereaved person may need additional support, but this may change over time. At the time of bereavement, they could still have the capacity to make a donation, but might need additional support to help them make their decision.

Additional support may include: delaying acceptance of the gift to give the donor further time to consider it; including a 'cooling off' period to allow the donor time to change his or her mind; and suggesting the donor gets advice from family/friends.



Think about the current context and anything which could have an affect on supporters or impact your ability to be aware of indicators of vulnerability, for example, COVID-19 and the wearing of face masks.

The following are examples of indicators which could mean that an individual is in a vulnerable circumstance or needs additional support:

- Physical and mental medical conditions
- Disability
- Times of stress/anxiety (e.g. bereavement, redundancy)
- Financial vulnerability (where a gift from a donor may impact on their ability to sufficiently care for themselves or leave them in financial hardship)
- Limited ability to communicate effectively
- Influence of alcohol or drugs.

What are the signs that someone may need additional care or support?



Remember, our approach is not for fundraisers to be attempting to make decisions on who is vulnerable. Instead, we want to help fundraisers be aware of some of the signs or indicators that they may pick up on in any interaction with an existing or potential supporter which could mean that individual is in a vulnerable circumstance. Being able to pick up on any of these indicators will then enable the fundraiser to be able to respond appropriately, asking follow up questions, and providing any additional care and support needed.

Whilst thinking about these indicators, it is important to remember that the presence (or indeed absence) of any of these indicators is very unlikely to mean that an individual is definitely in a vulnerable circumstance. An inclusive and responsive approach is needed to ensure that individuals are treated with respect and sensitivity.



Although a donor may display physical difficulties, this does not mean they are vulnerable or have issues of mental capacity. However, if a donor is experiencing or exhibiting any form of physical difficulty causing distress, this could impact on their ability to make an informed decision about their donation at that time.

Some signs will be more or less apparent depending on the nature of the communication and interaction between the fundraiser and donor. For example, talking to an individual face-to-face will likely enable the fundraiser to spot these signs more readily than in other interactions. What is important is that fundraisers are alert to any signs which indicate that the individual may not be able to make an informed decision about their donation.



What are some signs that an individual may be in a vulnerable circumstance?

Is the individual...

Having difficulty processing information:

- Asking irrelevant and unrelated questions, or wandering off the subject and making incongruous statements?
- Unable to read and understand the information they are provided with, and asking for it to be continually repeated?
- Responding in an irrational way to questions or saying 'yes' or 'no' when they clearly haven't understood?
- Taking a long time or displaying difficulty in responding to simple questions or requests for information?
- Repeating simple questions such as 'who are you', 'what charity is it' and 'what do you want'?
- Displaying signs of forgetfulness or difficulty remembering relevant information, e.g. that they are already a regular donor to that charity or have recently donated?

Showing signs of distress or discomfort:

- Saying that they are not well or not in the mood to continue or displaying signs of ill-health like breathlessness or making signs of exasperation or discontent?

Indicating they are overwhelmed or not capable:

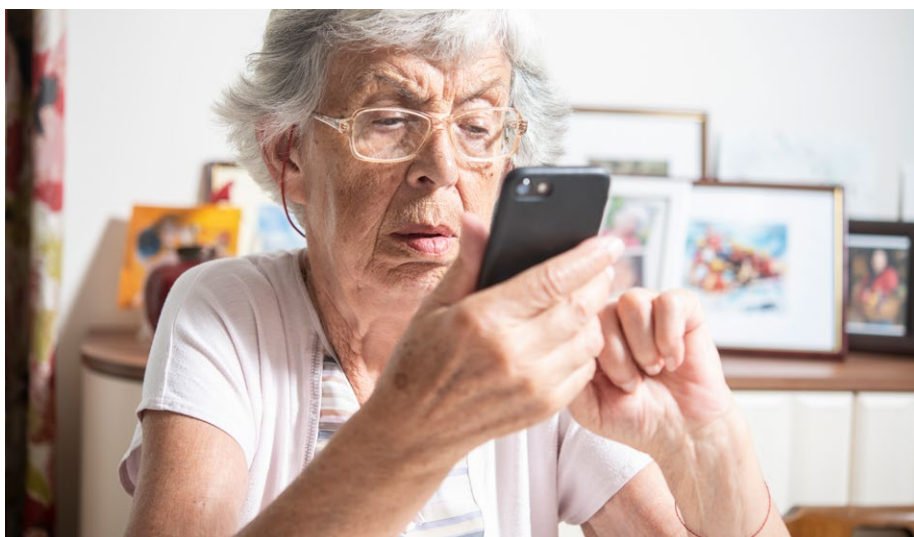
- Giving a statement such as 'I don't usually do things like this, my husband/wife/son/daughter takes care of it'?
- Having a third party such as a family member, contact the charity on behalf of the donor to communicate a request e.g. cancelling a direct debit?
- Indicating in any way that they are feeling rushed, flustered, or experiencing a stressful situation?
- Donating an unexpectedly large gift in combination with any of the above indicators and/or with no prior relationship with the organisation?

HOW FUNDRAISERS CAN RESPOND TO THE NEEDS OF INDIVIDUALS

Fundraisers should take reasonable steps to ensure that anyone with whom they are engaging understands the information and any donation that they are asked to make.

Fundraisers should be aware of signs that may indicate that the individual needs additional care and support to make an informed decision and take appropriate steps to meet that need. If there is reasonable belief that the individual lacks capacity to make their decision, then the fundraiser should not ask for a donation and end the interaction or conversation appropriately.

How fundraisers can respond to the needs of an individual will be dependent on the nature of the interaction. Fundraisers should be responsive to the needs of an individual and adapt their approach to the situation and needs of the donor. The suggestions that follow are not intended to be prescriptive and used exhaustively in every case, but are ideas or steps that could be used depending on the situation.





Examples of how a fundraiser could respond to provide extra support to an individual:

- Talk clearly, avoiding words and phrases that may be hard to understand (but avoid shouting).
- Repeat information.
- Try to reflect on the terminology used by the donor which may help to improve their understanding.
- Be patient and do not rush the individual.
- Provide alternative formats of fundraising materials (different language, accessible formats).
- Consider alternative ways of communicating with supporters if they have additional accessibility requirements. E.g. you could suggest using video conferencing or video calls instead of the telephone.
- Be upfront and tell the person why you are communicating with them and check if they are happy to continue.
- Ask if they would prefer to be contacted in a different way (email, letter) or at a different time.
- Ask if they would like to talk to anybody else before making a decision.
- Check their understanding throughout the interaction and ask if there is anything that needs further explanation.
- Allow them to defer their decision to a later date, for example, by offering to send information in the post.





Fundraisers should be mindful of how people may respond and react to both the volume and tone of the fundraising materials or interactions. For instance, some supporters may feel more comfortable talking on the phone and have limited proficiency with other technologies.

Individuals must not be put under undue pressure to donate, and when thinking through campaigns and communications, fundraisers should be thinking about the effect these might have on a supporter. Be aware of the impact of some of the messages and understand that those in a vulnerable situation may find it harder to say 'no' to a fundraising ask.



The steps that you take will be dependent on the type of fundraising communication and the amount of knowledge that you have about the supporter(s) receiving it. For example, for mass communications, where you have limited or no information about the people receiving it, the focus will be more likely to be on testing material and being prepared to respond to individuals where needed.

Steps you can take to review your fundraising activity:

- Review the communications/fundraising material that you send – could you prepare these in alternative ways that would be more suitable for some individuals? For example, reviewing font size, subtitling videos, or using a different tone or language.
- Review the training provided to your fundraisers or the approaches of fundraising agencies whom you partner with. Are they able to recognise the signs someone is vulnerable and respond appropriately?
- Get to know your donors whenever possible, so that you can respond appropriately to their preferences.
- Think about your cause, beneficiaries, and supporter base and whether that means you should have particular processes or ways of working set out. For example, if you work for a hospice, you may want to specifically address your approach to fundraising with bereaved families.
- Test communications and fundraising materials: how do your donors react and respond?
- Give individuals clear information and opportunities to change how, when, and if they want to hear from your charity in the future.

Ending a conversation and follow up action



It is a good idea to make a note of the conversation with a supporter and, where appropriate, follow up in writing confirming the actions taken and the steps that have been gone through, explaining any reasons for decisions taken.

Where a donation is made, this could be part of your normal supporter care and thank you process. This provides the opportunity to tailor the communication around the individual and your interaction with them, as well as document the outcome of conversations for both you and the supporter so that they can keep as a record.



In some cases, it may be necessary to take the donation details and then re-assess the case within the fundraising team to decide if there is a need for any further actions such as confirming the donation again with the supporter or asking any further questions.

When a fundraiser chooses to not ask for a donation, then ending the conversation or interaction sensitively and with care is important. In many cases, offering to send information to give the individual more details and time to think about whether they want to make a donation, and use that as a time to ask any further questions about additional support the individual may need, or schedule a time for a follow up call or meeting to discuss further.

If an individual tells you about a particular condition or circumstance, you may want to signpost them to a relevant service or further information (e.g, another charity, NHS, etc.) but that will not be appropriate in every case – for example, it could provoke anger or cause offence – and so should only be done where the fundraiser is confident in doing so.

When ending an interaction with a supporter, a fundraiser should – where appropriate to do so – check an individual's preferences for future contact from the organisation.

Accepting or declining donations



A decision to refuse a donation or to return a donation requires careful consideration. Depending on the size of the donation this may need to be a decision made by the trustees, and it is recommended that the charity has a policy on accepting and refusing donations, which also sets out the level of authority for making such a decision. Consider including in the policy a specific reference to people in vulnerable circumstances and the legal and risk factors that fundraisers should account for.



For more information see the Chartered Institute's guidance on Acceptance and Refusal of Donations.⁸

If the charity, after accepting a donation, receives evidence that the person lacked the capacity to make the decision to donate, then the charity should return the donation because it was invalid.

If it is the donor that has made the request to cancel a donation, (e.g. someone who donated whilst temporarily lacking capacity, such as during a psychotic episode) the charity should ensure that any direct debit or regular gift is terminated. It would be preferable to confirm any amendments or cancellation in writing and check the donor's preferences on future communication.

It is less clear cut in other circumstances, (e.g. where a person had mental capacity to give but lacked information or was in a vulnerable circumstance at the time of donating or has subsequently lost capacity after previously having set up a regular donation). We encourage all fundraisers to review their policy on accepting and refusing donations and read the guidance available to help inform your decisions.

Charities have a duty to maximise the income of their charity. A validly made donation becomes the property of the charity which cannot be returned unless certain legal conditions are met and steps taken.

⁸ Visit: <https://ciof.org.uk/events-and-training/resources/acceptance,-refusal-and-return-a-practical-guide-t>



Remember, you can take your time if you are reviewing a donation you aren't sure about – it is OK to delay a donation while you consider the best way forward or while you are discussing the potential donation with a supporter.

If someone with power of attorney for the donor contacts you to say that at the time of donating the individual concerned was not able to make an informed decision, the charity should return the gift.

Charities must weigh up the benefits of receiving a donation versus the reputational damage that may be caused by accepting the gift.

In general, for a donation to be refused or returned, the charity must be reasonably satisfied that the damage caused by accepting the donation will outweigh the monetary benefits. This may depend on the amount of the gift and the circumstances in which it was given. Any decision should be made in-line with the charity's policy on accepting and returning donations and be carefully documented.

If the trustees feel that there is a moral obligation to return a donation, then guidance should be followed from the appropriate regulatory body (Charity Commission for England and Wales, The Scottish Charity Regulator, or Charity Commission for Northern Ireland).

If the value of the donation is low, a charity may reasonably conclude that it requires a disproportionate amount of time and resource to investigate and evaluate whether the donation should be refused or returned. The charity's policy may include a provision on returning/refusing donations below a certain value in such circumstances. In these cases of low value donations it is unlikely that you would need to contact the Charity Commission.

Contact by an individual acting on behalf of a supporter



Sometimes a third party e.g. a family member, may contact a charity on behalf of the donor to communicate a request. For any financial matters (e.g. cancelling a direct debit), the charity must be satisfied that the third party making the request is authorised to act on behalf of the individual, which is usually demonstrated through a written authority on behalf of the donor, or might be a more general power of attorney for the third party to administer the donor's affairs. It is the third party's responsibility to provide evidence of this entitlement.

For some requests (for example, around communication preferences) a third party may not have written authority or a general power of attorney. In these cases, where the charity is satisfied that the individual is acting in the best interests of the supporter, we suggest that the charity responds to the request.



Checklist for taking donations

- Check the donation against your charity's gift acceptance/refusal policy
- See whether the individual has donated to you before or if there is a prior relationship
- Consider whether the donor was given any additional support to help them make an informed decision
- Attempt to contact the donor to check that the donation and amount was intended
- Discuss with any relevant and appropriate teams or individuals to help assess the best way forward
- If you are confident and reasonably believe that the person understands their decision and is happy to donate, then accept the donation and follow up with appropriate information to the individual and provide any further support that may be needed.



Preventing future fundraising approaches

If a donor is found to lack capacity, the organisation should put measures in place to ensure that donations are not solicited from them in the future. This could include adding relevant flags in a database, taking off a call list, or ensuring they don't receive future mailings.



An individual might need extra support or be in a vulnerable circumstance at one point in time, but may no longer be in that position later in life. For example, medical conditions or times of stress (such as financial hardship or bereavement) may improve over time. Fundraisers should take a pragmatic, common sense approach and may want to take steps to ensure that person is not contacted for a set period of time (i.e. six months or one year depending on the circumstances).

When contacting that individual in the future, fundraisers should take extra care to ensure the individual is happy to be contacted and be alert to any signs of potential vulnerability.

At any point, if an individual states that they do not want to be contacted again, or not through a particular method, then that request must be followed.

Signposting and providing advice to people in vulnerable circumstances



If fundraisers are in contact with an individual who may be in a vulnerable circumstance, they may feel it appropriate, or perhaps may be directly asked by the individual, to provide information on a service or resource for further help. For example, if someone says they are struggling with depression, the fundraiser may feel it appropriate to signpost them to the NHS information or a charity providing support. Whether this is appropriate or not will be based on the context and content of the interaction. In some cases it may not be appropriate, either because the fundraiser lacks the knowledge of an appropriate signposting resource, or because it may anger or offend the individual.

Charities may want to refer to and include relevant information in their safeguarding processes about how to respond in instances where an individual discloses that they are at risk of serious harm, or if they make a threat against a fundraiser.

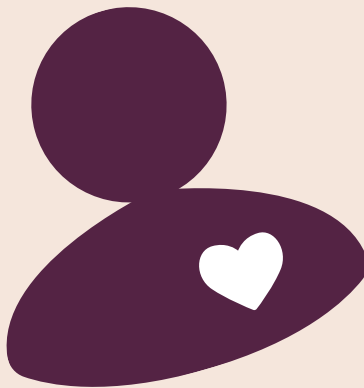
How to deliver a positive supporter experience when corresponding with a supporter in a vulnerable circumstance or a member of their family



Harpreet Kondal

Chartered Institute of Fundraising's Supporter Experience Special Interest Group

Six steps in delivering a positive supporter experience when dealing with vulnerability:



- 1 Establish what has happened and how and why the supporter was contacted. At the supporter's request, charities should make it easy for a friend or family member to help.
- 2 Reassure the supporter or their family member that you will investigate the matter. Ensure that frontline staff are equipped to respond appropriately by taking time to listen to what the individual is saying, are flexible enough to let the conversation take its natural course and ask the right questions whilst recognising this can at times be a difficult conversation.



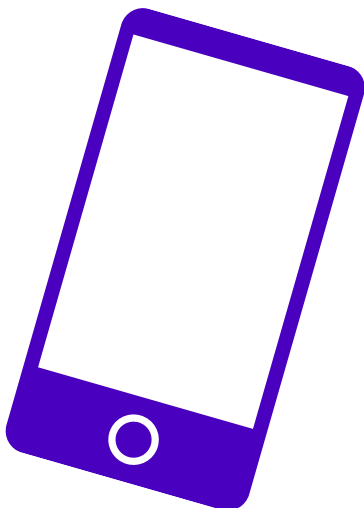
- 3 Review the supporters' record and check for any previous information about vulnerability, if they were contacted by an external supplier contact them and find out exactly what happened and how the supporter responded.
- 4 Contact the supporter or their family member in a timely fashion noting that long delays and lack of clear information that can cause further distress to vulnerable supporters. Come to a mutual resolution wherever possible, for example, in the case of a direct debit being set up, it could mean cancelling it and refunding all monies paid to date. Tell them what steps you have taken to ensure that this does not happen again and communicate any changes you have made as a result.

- 5 Thank the supporter or family member for bringing this to your attention and thank them for the support that the supporter has given your cause, the aim should always be to end the conversation on a positive note. It might also be helpful to sign post them to further support/resource e.g. your own charity's service, or if they have got a different condition/circumstance, an appropriate other charity/organisation.
- 6 Update the supporter's record to reflect steps taken and ensure it is noted that they should no longer be contacted with fundraising asks/or at all. If the process has thrown up any gaps in your procedures or policy, take the time to update these now so you are prepared if this happens again:
 - Ensuring that you have a clear vulnerable people's policy for fundraising
 - Ensuring you have clear escalation processes in place
 - Ensuring that your CRM or supporter database is able to appropriately mark records and exclude people from direct contact where needed (following the guidance below on recording special category data)
 - Ensuring that vulnerable supporters have access to practical, jargon-free information
 - Ensuring that vulnerable supporters can communicate through the range of communication channels in ways that best suits them as individuals, for example face-to-face, phone, post, email, text, large print, web chat, audio, Braille, video relay, Type Talk or text relay, interpreting services etc.



DATA PROTECTION AND RECORDING SENSITIVE PERSONAL INFORMATION

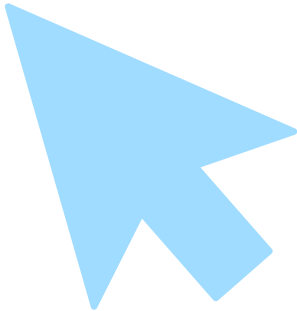
When a charity is communicating with someone who they think needs additional support to make a donation, fundraisers often ask what records they should or shouldn't keep. It might be that the charity wants to record some information about an individual which stops that person from receiving fundraising communications, or so they know additional consideration is needed when soliciting and/or accepting a future donation from that person.



This can also make sense from the point of view of delivering good supporter care – for example, being able to know if the person has been a previous service user of the charity in the past. Having that information to hand can help to make sure that any conversations or communications with that individual in the future can be appropriately, respectfully, and sensitively handled.

While there can be obvious benefits to recording information, charities must be aware of their responsibilities under data protection law, including the UK General Data Protection Regulation (GDPR) and Data Protection Act 2018, particularly where the information that they are recording is sensitive or 'special category data' such as any details of views or opinions about a person's physical or mental health conditions.⁹ Making a note on someone's record such as 'Vulnerable' may constitute special category data as it can infer a physical or medical health condition.

9 See: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/special-category-data/>



For full information about the requirements of GDPR, review the Chartered Institute of Fundraising's GDPR: The Essentials guidance¹⁰ or see the information provided by the Information Commissioner's Office.¹¹

Information that should be recorded

It is right and legitimate, as well as being in the interests of the individual, to record any communication preferences that an individual may have and keep it on your database. This includes any preferences for communication channels (such as phone, mail, email, etc.) and particularly any requests from individuals for a charity to stop sending them fundraising messages by any or all means. Charities should avoid recording information about an individual's physical or mental health conditions or any other sensitive personal data without the awareness and permission of that person.

GDPR requires that special category data is stored with the knowledge, and in most cases, explicit consent, of the individual. GDPR also requires that all information stored about a person, including medical information, is accurate, relevant, not excessive, and up to date. It is not enough to just get the consent of the individual to record their data, charities will also need to be able to demonstrate why they need to record the information and for what specific purposes it is being recorded. Therefore, charities should regularly review any notes/ comments that fundraisers make as part of their records.



No fundraiser should record any judgment or assessment about what they perceive an individual's physical or mental condition to be.

¹⁰ Visit: <https://ciof.org.uk/events-and-training/resources/gdpr-the-essentials>

¹¹ Visit: <https://ico.org.uk>



What charities need to be aware of

All individuals have the right to make a subject access request to any organisation processing their personal data and get a copy of the information that is held about them by that organisation.

GDPR does not set out any specific minimum or maximum periods for retaining personal data. Instead it says that personal data should be 'kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed'. In practice, charities will have to make a judgment as to how long to keep personal data relating to their supporters, and this will be informed by a range of factors, including the nature of the information, the purposes for which it is used and the type of relationship the person has with the charity. Retention periods should be set out in a Data Retention Policy.



Recording the fundraiser's experience of an interaction

Fundraisers can record their own experience of an interaction with a supporter to keep a note of a conversation, or to share with colleagues. This should not be any assessment of the individual's condition or circumstance, but a review of the interaction from the fundraiser's point of view. Care should be taken to ensure that only facts about the quality of the conversation are recorded. Ensure that only information about the fundraiser's perspective on the quality of the conversation is recorded. This could be noted in the charity's database so that it can help guide and inform future fundraising activity.

It is important for fundraisers to exercise caution when recording any information and be mindful that any notes that are related to a specific individual would need to be disclosed as part of a Subject Access Request.



How a fundraiser could record their own experience of an interaction with a supporter:

‘On 5th May I, Jane Smith, had a telephone conversation with Mr John Edwards. I did not think the telephone call went well, I had difficulty hearing the responses and I wouldn’t recommend calling this individual again.’ Following the call, Jane Smith made a record of the information and included the information ‘do not contact by telephone’ to the supporter’s record on their database.

An individual’s ‘personal declaration’

Whilst in most circumstances charities can’t record special category data without the individual’s explicit consent, all individuals can freely give information to a charity that they would like that organisation to keep a note of. The charity can then record the information on the database which can help manage their communications with that individual as well as tailor them to be appropriate and sensitive.

If an individual provides information to the charity that contains special category data, for example by making a statement about their condition or circumstance, the charity could ask the individual if they would like the information to be recorded so that they can best manage their communications in the future. This consent should only be sought if the charity believes it can demonstrate that it has a valid reason for doing so. A personal declaration can be given in writing or by a verbal statement.





Example of a written personal declaration:

- An individual sends in a donation and a completed response form with their personal details and consenting to future marketing. Alongside the donation they include a note that says, 'I do not have much money as I have been receiving treatment for cancer and so have been unable to work, but I would like to give what I can.'
- The charity writes back, thanking the donor for their gift and confirming that the individual has consented to receiving future communications – giving them the choice of withdrawing consent or changing their preferences. The charity may also ask whether the individual would like the charity to make a note of the situation, to ensure that any future contact from the organisation is appropriate and sensitive situation so that if anyone from the charity is in touch in the future they are aware.
- The individual replies, confirming that they would like the charity to keep the information on record.
- The charity can now update its records and make sure that any fundraising communications it sends are appropriate to the individual's situation.
- The charity should also keep a clear record of the individual's consent and, where possible, evidence of that consent. (In this example this would be the written confirmation from the individual that they would like their details kept on record).



Example of a verbal personal declaration:

- 'I, John Smith, wish anyone working in this organisation to be aware that I suffer from depression which can sometimes affect my ability to make a decision. Please give me some time to think about any donation and double check with me, in writing, at a later date to confirm that I am happy with any gift I make.'
- In the event that someone makes this statement to a fundraiser verbally, the fundraiser should check with the individual that they are happy for this information to be recorded on the charity's database so that the charity can be sure of dealing with his request. Assuming consent is given, the charity should make a note of that verbal consent.
- Where an individual does not provide consent to information about their circumstances being recorded, then the fundraiser can make a note and record details which do not contain sensitive personal data but which makes clear either that the charity should not make further contact, or should not contact the person to ask for a donation for instance 'no contact'.

A GUIDE TO DEVELOPING AN INTERNAL POLICY ON FUNDRAISING AND VULNERABILITY

Having a policy for your organisation's fundraising and its approach to people in vulnerable circumstances has multiple benefits: it demonstrates good governance processes; expresses the values of the organisation; and provides a framework so that all staff and volunteers know what's expected of them. It can also be used to explain to supporters or the public how you are going about your work and aid transparency and accountability.

These are the recommended steps and considerations for preparing any fundraising policy.

1 Define why you want a policy and what you want it to achieve

- Consider what the purpose/aims/objectives of the policy are – why are you putting a policy together. What do you hope that this policy will achieve? What do you intend to do with it? Are you creating a policy to address an existing problem or to direct a future way of working?
- Consider a range of viewpoints and perspectives (beneficiaries, supporters, staff, funders and trustees). Consult with all relevant stakeholders to ensure their input is gathered at the front end of the process?
- Establish which groups or individuals are likely to be impacted by this policy. Are there any unintended consequences or practical issues you need to think through?





2

Creating your policy

- Does your organisation have a framework or protocol that it follows when creating a policy?
- Organisational policies should be approved by your Board of Trustees – check your protocols and processes for reviewing and setting new policies within your organisation
- Build in a test and reflection stage(s) to take a step back and review your progress – are there any unexpected issues? Do you need to get a sense check or feedback from others?
- Consider how you will enact the policy, who will need to be involved and what processes or systems may need changing?

3

Define and agree the content and application

- Will it apply to all employees, volunteers, trustees, ambassadors, third party organisations, (e.g. third party agencies and professional fundraisers, commercial partners)?
- Will your policy align and complement the policies of third-party organisations? Are there any issues or conflicts to iron out?
- Will it overlap with any existing policies, (e.g. acceptance of gifts, complaints policy)?
- Discuss and agree what you think the expectations and outcome should be. How will you know that this policy is achieving its aims? What evidence, information, feedback will you need to gather and consider?
- Consider how employees and others will engage with this policy. For example, in-house inductions and training programmes could include a section on understanding the organisation's approach to vulnerability.
- Will individuals be assessed on how they perform in relation to it? Will there be any sanctions if they breach or disregard the policy?



4

Consider Exceptions

- Where possible, consider if there are any exceptions that could apply? Would there be any cases where this policy wouldn't apply? For what reason? There may be a genuine and justified reason why not following the policy could be the right thing to do. What would be the process to best deal with this? Who should be included in this decision?

5

Consult and engage relevant stakeholders

- Don't create the policy in a vacuum, the best policies are created with input from all those who are affected by them – consider your employees, volunteers, trustees, supporters, donors (including potentially those with lived experiences of vulnerability), service beneficiaries and providers.
- The final version may not be able to reflect all viewpoints, but it is important to ensure that all stakeholders' opinions were heard, to allow all the risks to be considered and addressed to minimise the risk of unintended consequences.
- Make sure that fundraisers are involved in the process alongside colleagues in a compliance or governance role. Consider the practicalities of how the policy would work in the day to day activity of your fundraising.



6

Agree language/terminology

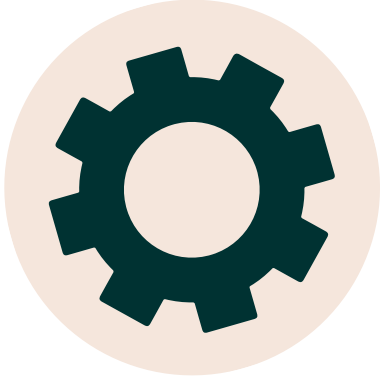
- Be as clear as possible, using straightforward language to avoid confusion or alternative interpretations. If this is to be public or available to supporters, then make sure you avoid (or explain) any difficult terminology, internal 'shorthand' / 'phrases' and acronyms.
- If using phrases to indicate required behaviour or action, use clear words like 'must' and 'will' to avoid any implications that the policy is optional.
- Where the individual is expected to use their own judgement, be equally clear that this is the case.
- Ensure that your policy is inclusive and does not risk isolating those in vulnerable circumstances or curtail their equal opportunities. Consider the Equalities Act and use inclusive terminology, e.g. people in vulnerable circumstances not vulnerable people.



7 Test and review

- Think about a testing or pilot period to establish whether the policy is having the expected and desired impact. Test it with different teams and campaigns (telephone, community, volunteer fundraising) and encourage feedback and comment.

8 Consider contact points / references



- Identify which role(s), within the organisation will be responsible for administering/enforcing this policy and/or for providing guidance on it. Try to avoid naming/ specifying individual employee names – instead use roles and non-personalised contact details – to avoid updates due to changes in personnel.
- Ensure that the person holding that role is aware of this responsibility and what it means. Do they need any support or training?
- What happens if that individual is sick or on leave? Who else will be the point of contact?

9 Making people aware



- How will you launch this policy and ensure all affected are aware of its existence? Will this be by an all- staff briefing, emails, and/or presentations? Will it be part of future inductions and training?
- Think about other partners and stakeholders. How will you make any agencies or partners aware of your policy and will they need to embed it in their work? Will you monitor that they have done so?
- Do you have volunteer managers and community fundraisers? Ensure that these people have access to any support or training they may need and that there are adequate safeguards in place to protect their wellbeing and mental health.
- Will you make your policy publicly available? Many charities publish their policy, or a summarised statement about it, on their websites and make available with supporters or others if they are asked.

Together we are the future of fundraising

We champion our members' excellence in fundraising. We support fundraisers through professional development and education. We connect fundraisers across all sectors and skill sets to share and learn with each other. So that together we can best serve our causes and communities both now and in the future.

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Thank you to Bates Wells for advice and contributing to this guide.

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