

Code for Commercial Fund-raisers (The Code)

Introduction

From time to time, charities may engage Commercial Fund-raisers to fund-raise on their behalf for charitable, benevolent and philanthropic purposes. The Code is issued by the Commissioner of Charities (COC) with the aim of fostering a more trustworthy and safer giving environment with strong public support.

In the Code, unless otherwise specified, a Commercial Fund-raiser is defined as any person who for reward solicits or otherwise procures money or other property for, or purportedly for, the benefit of a charity or any charitable, benevolent or philanthropic purpose.

The three core guiding principles of the Code are namely, Legitimacy, Accountability and Transparency. The Code, which may be amended from time to time, incorporates the standards and practices prescribed by the Charities Act (Cap 37) (“**CA**”), and its Subsidiary Legislation, as well as professional standards which the COC expects Commercial Fund-raisers to adhere to. The Code also makes reference to the House to House and Street Collections Act (Cap 128) (“**HHSC Act**”) and its subsidiary legislation. We have used “Must” and “Must Not” to denote legal requirements, and “Should” or “Should Not” to denote the professional standards that should be met.

For the avoidance of doubt, apart from the requirements under the CA, the HHSC Act and the respective Subsidiary Legislation under the said Acts, other laws could also apply. It is the duty of Commercial Fund-raisers and charities that outsource their fund-raising appeals to Commercial Fund-raisers to ensure that the fund-raising practices of the Commercial Fund-raisers and their subcontractors (if any) are compliant with all the applicable laws and regulations in Singapore. In particular, they should ensure that their practices are aligned with the requirements under the CA and its Subsidiary Legislation, including the Charities (Fund-raising Appeals for Local and Foreign Charitable Purposes) Regulations 2012 (“**FR**”).

The Code is **not** intended to provide an exhaustive list of the legal requirements that Commercial Fund-raisers and charities need to be aware of and comply with under the CA, the HHSC Act or any other legislation.

Who should read this?

- **Commercial Fund-raisers** who are engaged by charities to conduct fund-raising on their behalf. Whether members of the public support the charity will largely depend on their experience during the solicitation process and the assurance they can get from Commercial Fund-raisers on the use of their donations for a worthy charitable cause. Members of the public may also be learning about the existence of a particular charity for the first time through Commercial Fund-raisers. It is therefore important that Commercial Fund-raisers:
 - (a) are aware of their legal obligations under the CA and its Subsidiary Legislation;
 - (b) adhere to the practices and standards as laid out in the Code; and
 - (c) obtain the requisite Commercial Fund-raiser's Collector's Certificate of Authority issued to the charity under the National Council of Social Service or the House to House and Street Collections Licence issued by the Singapore Police Force for the collections, where applicable.
- **Charities** who engage Commercial Fund-raisers due to various reasons such as manpower and time constraints. It is important that charities are aware of the practices and standards as laid out in the Code and to ensure that the Commercial Fund-raisers whom they engage abide by the Code. This ensures that their reputation will be safeguarded and more people will have a better and accurate understanding of their good work.
- **Members of the Public** who are approached by Commercial Fund-raisers for the solicitation of donations. The Code aims to help the public understand the practices and standards as laid out in the Code, and to ensure they receive the necessary information and respect they should be accorded without facing undue pressure in giving. If in doubt of any Commercial Fund-raiser's claims, members of the public are advised to request to view a copy of the Commercial Fund-raiser's Collector's Certificate of Authority issued to the charity under the National Council of Social Service or the House to House and Street Collections Fund-raising License issued by the Singapore Police Force.

To report suspected contraventions of the CA and its subsidiary legislations, please contact the Charities Unit at the following email address: mccy_charities@mccy.gov.sg.

To report suspected contraventions of the HHSC Act and its subsidiary legislation, please contact the Police immediately at 999.

(Part A) Before Fund-raising: Engagement between the Charity and the Commercial Fund-raiser

1. Background Checks to be conducted by Commercial Fund-raisers

1.1. Commercial Fund-raisers should verify that:

- (a) the Charity that hires them is bona fide (e.g. the Charity is registered with the COC); and
- (b) the fund-raising appeals they conduct are for genuine charitable needs.

1.2. Verification can be done by cross referencing personal/organisational documentations and records with the records on the Charity Portal (www.charities.gov.sg).

2. Written Agreement with the Charity

2.1. Commercial Fund-raisers¹ must have a written agreement with the Charity before they can solicit money or other property for the benefit of the Charity and/or represent that a charitable contribution is to be given to or applied for the benefit of a Charity. The agreement must contain details of the following:

- (a) location of appeal, date of appeal and fund-raising appeal method;
- (b) percentage of proceeds to the Charity;
- (c) timeframe within which proceeds must be distributed to the Charity; and
- (d) remuneration of the Commercial Fund-raiser.

2.2. Commercial Fund-raisers should provide a declaration of adherence to the Code in the written agreement with the Charity.

3. Responsibilities when another Individual or Organisation is Hired to Conduct Fund-raising (Sub-contractors)

3.1. Commercial Fund-raisers must ensure that any person, who makes a fund-raising appeal (whether alone or with others and for remuneration or otherwise) for a charitable purpose, is at least 16 years of age unless approval is sought from the relevant approving authority.

¹ In this context, the term “Commercial Fund-raiser” is governed by the definition in Regulation 13(1) of the FR. Regulation 13(1) of the FR states:

In this Part, “commercial fund-raiser” means

- (a) any person (apart from a charitable institution) who carries on a fund-raising business; or*
- (b) any other person (apart from a person excluded by virtue of FR. Reg 13(2)) who for reward solicits money or other property for the benefit of a charitable institution, if he does so otherwise than in the course of any fund-raising venture undertaken by a person falling within sub-paragraph (a).*

“Person” includes any company or association or body of persons, corporate or unincorporated.

3.2 Commercial Fund-raisers that employ sub-contractors to conduct any part of their fund-raising should:

- (a) maintain proper oversight over their sub-contractors and ensure that there is no contravention of the FR and the House to House and Street Collections Regulations (“**HHSC Regulations**”);
- (b) ensure proper accountability of the documents/items (e.g. Certificates of Authority, badges, collecting boxes and receipt books) issued to the sub-contractors and prevent misuse beyond the purpose of the collection;
- (c) provide the Charity with the names of all the sub-contractors that they engage for the purpose of the Charity’s fund-raising appeal and the locations where these sub-contractors will be conducting the fund-raising appeal;
- (d) include a clear requirement, within the contract with the sub-contractors, to comply with all the requirements in the FR and HHSC Regulations, in the same manner as if the Charity were directly contracting them; and
- (e) provide training to the sub-contractors to ensure that they are able to clearly share the purpose of the fund-raising appeal to the public or donors, including what the donations will be used for, and how they can receive updates. (Commercial fund-raisers should work with the Charity to ensure that similar training is also extended to the Charity’s volunteers.)

4. Remuneration to Commercial Fund-raisers

4.1. Commercial Fund-raisers must hand over all donations collected directly to the Charity without deducting any payment or reimbursement of expenditure due to them. The payment due to the Commercial Fund-Raisers must be paid separately.

(Part B) Conduct of Fund-raising

5. Appropriate Behaviour

5.1. Collectors of house-to-house collections and collectors for full or associate Council members of the National Council of Social Service must not:

- (a) cause annoyance to any person or remain at the door of or in any premises, if requested by an occupant thereof to leave; or
- (b) solicit at locations other than the ones stated in the licence authorising them to promote a collection.

5.2. Commercial Fund-raisers, including sub-contractors, should not:

- (a) act in any way that might reasonably cause members of the public to become startled or anxious;
- (b) act dishonestly or manipulatively, or deliberately seek to make a potential donor feel guilty;
- (c) exert undue pressure on members of the public to donate;
- (d) exploit their position for personal gain;
- (e) engage in any other behaviour that harms the reputation of the charity;
- (f) block the public right of way or move to obstruct a member of the public; or
- (g) remain at the door of or in any premises, if requested by the premise's management/owner to leave the premises.

6. Clear and Accurate Information during Solicitation and in Publicity Materials

6.1. Commercial Fund-raisers must ensure that:

- (a) any information they provide to donors or to the general public is accurate and not misleading; and
- (b) the following information is disclosed to every person from whom they solicit donations:
 - (i) the name of the Charity or the person to which the donation will be given;
 - (ii) the purpose for which the donation will be used; and
 - (iii) the fact that a Commercial Fund-Raiser has been engaged in soliciting the donation.

6.2. Where Commercial Fund-raisers² solicit money or other property for Charit(ies), all solicitation and publicity material must be accompanied by clear information on:

² In this context, the term "Commercial Fund-raiser" is governed by the definition in Regulation 13(1) of the FR. Regulation 13(1) of the FR states:

In this Part, "commercial fund-raiser" means

- (a) any person (apart from a charitable institution) who carries on a fund-raising business; or*
- (b) any other person (apart from a person excluded by virtue of FR. Reg 13(2)) who for reward solicits money or other property for the benefit of a charitable institution, if he does so otherwise than in the course of any fund-raising venture undertaken by a person falling within sub-paragraph (a).*

- (a) the name(s) of the Charit(ies) to which the donation will be given;
- (b) (if there is more than one Charity concerned) the proportions in which each Charity is to benefit;
- (c) the name of the Commercial Fund-raiser and the fact that it is a commercial entity;
- (d) the proportion of total proceeds that will go to charitable causes; and
- (e) the method by which the remuneration of the Commercial Fund-raiser is to be determined.

6.3. Where Commercial Fund-raisers³ solicit money or other property for a charitable, benevolent or philanthropic purpose of any description (rather than for the benefit of one or more particular charities), all solicitation and publicity material must be accompanied by clear information on:

- (a) the purpose for which the Commercial Fund-raiser is soliciting money or other property;
- (b) the fact that the Commercial Fund-raiser is soliciting money or other property for those purposes and not for the benefit of any particular Charity;
- (c) the name of the Commercial Fund-raiser;
- (d) the fact that the Commercial Fund-raiser is a commercial entity;
- (e) the proportion of total proceeds that will go to charitable causes;
- (f) the method by which the proceeds of the appeal is to be distributed; and
- (g) the method (in general terms) by which the remuneration in connection with the appeal is to be determined.

6.4. Where Commercial Fund-raisers⁴ make a representation to the effect that charitable contributions are to be given to or applied for the benefit of one or more particular Charities, the representation must be accompanied by a written statement clearly indicating:

- (a) the name or names of the Charities concerned;
- (b) (if there is more than one Charity concerned) the proportions in which each Charity is to benefit;
- (c) the name of the Commercial Fund-raiser;
- (d) the fact that the Commercial Fund-raiser is a commercial entity;
- (e) the proportion of total proceeds that will go to charitable causes; and
- (f) the method (in general terms) by which the following is to be determined:
 - (i) the proportion of the consideration given for goods or services sold or supplied by him, or of any other proceeds of a promotional venture undertaken by him, is to be given to or applied for the benefit of the Charities concerned; or
 - (ii) the sums by way of donations by him in connection with the sale or supply of any such goods or services are to be so given or applied, as the case may require.

6.5. If the fund-raising appeal seeks to secure a form of non-financial commitment from a potential donor but there is a possibility that the Commercial Fund-raiser or Charity

³ Ibid.

⁴ Ibid.

may subsequently ask for a financial commitment and/or contact the potential donor in future, the Commercial Fund-raisers should disclose this and seek the consent of the potential donor for the contact to be made.

6.6. Commercial Fund-raisers should be transparent to the donors on their remuneration and provide an update on the funds raised to date.

7. Identifiable Features of a Commercial Fund-raiser

7.1. Commercial Fund-raisers, including any sub-contractor of the Commercial Fund-raisers, should have a clearly visible and identifiable feature to indicate that fund-raising is being conducted. This could be in the form of:

- (a) a name tag/lanyard displaying the collector's name, the Charity's name and Commercial Fund-raiser's name; or
- (b) clothing that is marked with the Commercial Fund-raiser and/or the Charity's name.

(Part C) Post Fund-raising Management

8. Accountability to the Charity

8.1. Commercial Fund-raisers⁵ must, on request by the Charity and at all reasonable times, make available any book, document, or other record (however kept) which relates to the Charity and the performance of the fund-raising agreement between them. Such book, document, or other record must be made available to the Charity in a legible form.

9. Complaints and Concerns

9.1. Commercial Fund-raisers should notify the Charity of any feedback received in relation to the fund-raising appeal and cooperate with the Charity by providing the relevant information and assisting in the review of the feedback.

10. Confidentiality of Donors' Information

10.1. Commercial Fund-raisers must ensure that all information relating to every donor is kept confidential, and is not disclosed to any other person except as authorised by or under any law or with the consent of the donor.

11. Management of Funds Raised and Duty to Maintain Accounting Records

11.1. Commercial Fund-raisers must ensure that any arrangements by them to solicit donations have adequate control measures and safeguards to ensure proper accountability and to prevent any loss or theft of donations.

11.2. Commercial Fund-raisers must pay the Charity, or the person they are raising funds for, the gross sum of all the donations collected directly and without deducting or setting off any payment or reimbursement of expenditure due to them.

11.3. Commercial Fund-raisers must maintain proper accounting records of all donations received and disbursed, as well as details of all the income and expenses incurred by the fund-raising appeal, for at least 5 years from the end of the financial year to which the accounting entry relates.

12. Checks on Fund-raising Appeals and Adherence to The Code

12.1. Any person (*including Commercial Fund-raisers*) must furnish any information and any document relating to any charity or fund-raising appeal if the COC so requires.

⁵ Ibid.

12.2. Commercial Fund-raisers should conduct periodic reviews of its fund-raising processes to ensure that they are in accordance with the Code and all relevant laws and regulations.

13. Refund of Donations

13.1. Any agreement between Commercial Fund-raisers⁶ and donors under which the donor is, or may be liable to make any payment or payments to the Commercial Fund-raiser shall be cancelled and the Commercial Fund-raisers must refund any donation made by the donor if:

- (a) the agreement was entered in response to any solicitation or representation referred to in Regulation 16 of the FR;
- (b) the donation amount that the donor is, or may be liable to pay, exceeded S\$200.00; and
- (c) the donor serves on the Commercial Fund-raiser a notice indicating his intention to cancel the agreement before the end of 7 days beginning on the date of the solicitation or representation

provided that:

- (i) the amount refundable is less any administrative expenses reasonably incurred by the Commercial Fund-raiser in connection with the making or the refund or dealing with the notice of cancellation;
- (ii) (in the case of a payment for goods) the donor returns any goods already received; and
- (iii) (in the case of payment for services) the payment does not relate to services that have already been supplied at the time when the notice is served.

13.2. If there is no agreement under which the donor is, or may be liable to make any payment or payments to the Commercial Fund-raiser, Commercial Fund-raisers⁷ must still refund any donation made by the donors immediately if:

- (a) the donation was made in response to any solicitation or representation referred to in Regulation 16 of the FR;
- (b) the donation amount exceeded S\$200.00; and
- (c) the donor serves on the Commercial Fund-raiser a notice indicating his intention to cancel the donation before the end of 7 days beginning on the date of the solicitation or representation

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- (ii) (in the case of a payment for goods) the donor returns any goods already received;
and
- (iii) (in the case of payment for services) the payment does not relate to services that have already been supplied at the time when the notice is served.