

# Collections for Charitable Purposes Act 1939

## Charities Code of Practice

### Part 1 – Preliminary

#### 1. Citation

This code of practice may be cited as the *Charities Code of Practice* under the *Collections for Charitable Purposes Act 1939*.

#### 2. Commencement

This code of practice came into operation on 1 March 2013 and was amended on 1 December 2016 and subsequently on 29 January 2024.

#### 3. Purpose of the code

The purpose of this code of practice is to:

- (a) establish required practices for the conduct and management of charitable collections within South Australia;
- (b) ensure collection activities give confidence to potential donors in the charity sector;
- (c) ensure donors are given the opportunity to make informed decisions about donating;
- (d) ensure donors' rights to privacy are respected;
- (e) ensure that the decision not to donate is respected; and
- (f) ensure collectors' rights are respected by licensees.

#### 4. Interpretation

- (1) In this code of practice:

**Act** means the *Collections for Charitable Purposes Act 1939*.

**charitable organisation** or **charity** means the holder of a section 6 licence pursuant to the Act and includes a Commonwealth registered entity registered under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth. A Commonwealth registered entity on giving written notice to the Minister, is taken to hold a section 6 licence for the purposes of the Act.

**commercial fundraiser** has the same definition as 'paid collector' in the Act.

**contact details** means the name of a contact person and their contact address, a telephone number and an email address if applicable.

**ongoing donation** means an agreement between a donor and a charitable organisation for the regular payment of donations on an ongoing basis.

- (2) Expressions defined in the Act have the same meanings in this code of practice.

## 5. Mandatory nature of the code

- (1) Under:
  - (a) section 6(5)(a) of the Act, a Commonwealth registered entity's authority to act as a collector under subsection (3) is subject to the condition that the entity or any other person authorised by the holder of the licence to act as a collector comply with the code of practice (as in force from time to time); and
  - (b) section 12(2)(b) of the Act, a licence may be granted subject to any conditions that the Minister thinks fit, including conditions requiring the holder of the licence or any other person authorised by the holder of the licence, to comply with provisions of a code of practice issued by the Minister.
- (2) This code of practice is in addition to, and does not derogate from, obligations under the Act or other licence conditions imposed by or under the Act.
- (3) Failure to comply with a provision in this code of practice will be a breach of licence condition and may result in disciplinary action in accordance with the Act.

## Part 2 – Required practices

### 6. Hours and location of collection activities

When conducting fundraising activities, charitable organisations must ensure that their employees, volunteers, contractors and anyone else who they engage or arrange to raise funds on their behalf:

- (1) Never conduct door-to-door or telephone fundraising activity at the following times:
  - before 9 am or after 5 pm on a weekend
  - before 9 am or after 6 pm (door-to-door) or 8pm (telephone) on a weekday
  - on a public holiday, unless the public holiday is closely connected with a fundraiser's charitable purpose.

### 7. Identification requirements for collectors

When conducting fundraising activities, charitable organisations must ensure that their employees, volunteers, contractors and anyone else who they engage or arrange to raise funds on their behalf:

- (1) Always explain the purpose of their charity and the purpose to which the funds raised will be applied in ways that are appropriate for the audience.
- (2) Always be clearly, and individually, identifiable by the public (including to display identification that contains the individual's name, whether they are a volunteer, employee or acting in some other capacity for a charitable organisation or commercial fundraising organisation, and that organisation's name and contact details).

## 8. Principles for Fundraising Activities

When conducting fundraising activities, charitable organisations must ensure that their employees, volunteers, contractors and anyone else who they engage or arrange to raise funds on their behalf:

- (1) Always make and keep written records of fundraising activities that can be easily read and understood.
- (2) Always acknowledge and comply with a:
  - refusal to make a donation
  - request not to receive future solicitations (including marketing and promotional materials)
  - request to be contacted at a more convenient time or by a different means
  - request to limit the number, type or frequency of solicitations.
- (3) Never mislead, deceive or knowingly use false or inaccurate information when fundraising.
- (4) Never place undue or unreasonable pressure on a person when fundraising, or act unconscionably in any way to obtain a donation.
- (5) Never exploit the trust, lack of knowledge, lack of capacity, apparent need for care and support, or vulnerable circumstances of any donor.
- (6) Always make it clear whether a donation is a one-off or an ongoing donation, and clearly explain how to end an ongoing donation.
- (7) For commercial fundraisers engaged to fundraise for a charitable organisation, never accept a donation without having explained that they are part of an organisation that makes a profit from fundraising as well as how they are paid.

## 9. Other Fundraising Principles

At all times, charitable organisations must:

- (1) Conduct all reasonable due diligence when engaging third parties to assist, support or deliver fundraising activities on its behalf.
- (2) Make and keep written records of the total funds raised and the purposes for which funds are applied.
- (3) Take all reasonable measures to protect the health, safety and wellbeing of fundraisers employed or directly engaged by them, as well as members of the public, when fundraising.
- (4) Establish and maintain a complaints process that allows for proper investigation and redress of fundraising complaints that may be made by the public and encourage anyone with concerns about a fundraising activity conducted by or on behalf of the charity to contact them.
- (5) Ensure information covered by the *Privacy Act 1998* of the Commonwealth (the Privacy Act) is collected, used and managed in accordance with the Australian Privacy Principles where required under the Privacy Act.
- (6) Always ensure remuneration to commercial fundraisers engaged to fundraise for a charitable organisation is not excessive when compared to money or goods received for the charitable purpose of the fundraising.