

**REGULATION OF FUNDRAISING BY
CHARITIES THROUGH LEGISLATION
AND CODES OF GOOD PRACTICE**

DRAFT PROPOSALS

Irish Charities Tax Research Ltd

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CONTENTS

1. INTRODUCTION – THE CONTEXT	2
2. PRACTICE AND SCALE OF CHARITABLE FUNDRAISING IN IRELAND	3
3. RECOMMENDATIONS BASED ON CONSULTATIONS WITH CHARITIES AND THE GENERAL PUBLIC	5
4. FURTHER CONSULTATIONS	10
APPENDIX ONE: SUMMARY OF RECOMMENDATIONS	11
1. Objectives of Codes of Good Practice	11
2. Types of fundraising to be covered by Codes	11
3. Rules and Standards to be set by the Codes	11
4. Drafting of Codes and setting of Standards	12
5. Promoting the take-up of Codes by Charities	12
6. Monitoring of the Codes	12
7. Funding of the Scheme for Developing Codes	13
8. Supports for Charities	13
9. North – South Co-operation	13
10. Review of the Scheme	13
11. Further Consultation	13
APPENDIX TWO: Membership of Steering Committee	14
APPENDIX THREE: Consultation Process – Workshops and Submissions	14

1. INTRODUCTION – THE CONTEXT

In March 2006, following detailed consultation with the charities sector and the general public, the Government announced details of the legislation to establish a modern statutory framework for charities. Noel Ahern T.D, Minister of State at the Department of Community, Rural and Gaeltacht Affairs with responsibility for charity law, published the **General Scheme for the Charities Regulation Bill 2006**.

The proposed legislation seeks to achieve the right balance between, on the one hand, proper accountability and vigorous intervention where charity is abused and, on the other hand retaining the dynamism of voluntary groups through appropriate support and guidance that promotes best practice.

One of the most important areas covered by the proposed legislation is **fundraising** by charities. Ensuring public confidence in fundraising by charities is in the interests of both charities and the general public who wish to support charitable work.

The General Scheme for the Charities Regulation Bill 2006 provides that:

1. All charities seeking to operate or fundraise within the State will be obliged to register with the new Charities Regulator;
2. Permits will be required for all public collections for the benefit of charities except within the grounds of places used for public worship;
3. The Charities Regulator will require charities to provide information concerning their fundraising activities in their applications for registration, as well as in their annual accounts and annual returns;
4. **Codes of Good Practice will be developed with the charities sector, in relation to practices and procedures i.e the operational and administrative aspects of charitable fundraising.**

The draft proposals in this Report are concerned with the development of these Codes of Good Practice.

The Department concluded, in its consultation paper *Establishing A Modern Statutory*

Framework for Charities, that it would be very difficult through legislation to regulate the **operational aspects** of charitable activities, where practice is continually developing. It recognises that non-statutory Codes of Good Practice may be the best way to manage and oversee fundraising practices and procedures.

This approach, when combined with legislation on permits and accountability, would assure the public that their charitable donations are being used to support the work of the charity while allowing for greater flexibility and speedier adaptation by charities to changes in fundraising practices.

The proposed *Charities Regulation Bill, 2006* does, however, include a reserve power for the Minister of Community, Rural and Gaeltacht Affairs to introduce statutory regulation of the **operational aspects** of fundraising should the approach to regulation through Codes of Good Practice turn out to be inadequate or fails to provide the expected benefits.

To progress these Codes of Good Practice, the Department of Community, Rural and Gaeltacht Affairs entered an agreement with Irish Charities Tax Research Ltd to carry out research and make recommendations on how the **operational aspects** of charitable fundraising can be effectively regulated through Codes of Good Practice.

To instill public and political confidence in the research, ICTRL commissioned independent consultant Peter Cassells to undertake a feasibility study on the development of Codes of Good Practice for charitable fundraising. Also a Steering Committee was established to oversee the feasibility study and approve the outputs. The names of the Steering Committee are given in Appendix Two.

As part of the feasibility study ICTRL commissioned the Centre for Nonprofit Management (Trinity College) to provide a 'best estimate of the prevailing scale and practice of charitable fundraising in Ireland'. ICTRL, the Steering Committee and Mr. Cassells also consulted widely with the charities sector, the general public and with public bodies that provide funding to charities. Details of the consultation process are given in Appendix Three.

2. PRACTICE AND SCALE OF CHARITABLE FUNDRAISING IN IRELAND

As indicated earlier, the Department of Community, Rural and Gaeltacht Affairs recognizes that the best way to oversee charitable fundraising while retaining the dynamism of voluntary groups may be through legislation on the accountability of charities combined with non-statutory Codes of Good Practice on fundraising practices and procedures.

Concerns have been expressed, however, especially by smaller charities that Codes of Good Practice on fundraising will impose a considerable bureaucratic burden on them and reduce volunteerism. They also fear that the small number of large charities who secure a larger amount of donations will dominate the design of these Codes.

To address these concerns and ensure that the question of scale is taken into account in the design of the scheme to draft and monitor Codes of Good Practice, ICTRL commissioned the Centre for Nonprofit Management (Trinity College) to provide the 'best estimate of the prevailing scale and practice of charitable fundraising in Ireland'.

A full copy of the report is available on the ICTR website at www.ictr.ie. A hard copy may be obtained from Irish Charities Tax Research Ltd, ISFC 10 Grattan Crescent, Inchicore, Dublin 8.

The Report confirms that the size and capacity of organizations and their differing fundraising experiences must be taken into account in framing the Codes of Good Practice.

As the following profile in the Report shows, fundraising by charities in Ireland is distinguished by a large number of small charities whose fundraising efforts are part time and a relatively small group of national and international charities which have full-time fundraising teams:

■ **Fundraising income:** Fundraised income represents just over 20% of the income of charities. Public finances provide over 60% of income with the balance coming from fees and other sources.

The Report shows that 6 out of 10 charities receive less than €21,000 in fundraised income while the top ten percent raise €200,000 or more per annum.

The larger charities have over three times the number of full time paid staff and twice the number of part-time paid staff than the average fundraising organization. Smaller charities tend to rely on volunteers and staff with other significant responsibilities.

■ **Fundraising Practices:** Two distinct fundraising experiences are reported by charities depending on whether they are large or small and on whether they have a national or a local remit.

In the case of *larger organizations* with a national remit the fundraising experience is larger scale and more professionalized. They tend to employ full-time fundraising teams and a variety of fundraising methods for different donor populations (i.e. face-to-face, direct mailing and corporate sponsorship).

Fundraising is less personalized and accountability is primarily information based (i.e. cause-related marketing, formal information streams and public relations) with a high level of importance accorded to relationships with the wider community/society, business as well as the State. Investment in fundraising is high and ongoing and is interwoven with the organization's performance and development.

For *smaller charities*, fundraising is typically local and personalized with success achieved through community ties. They tend to utilize routine fundraising methods, such as church gate collections, raffles and local business sponsorship.

Fundraising is undertaken on a part-time basis by volunteers, board members and staff with considerable additional responsibilities. Accountability is based on personal trust and local observation.

Investment in fundraising is low and is often regarded as a necessary evil which diverts energy and resources away from service-delivery.

- **Future Directions:** According to fundraising personnel, the current fundraising environment is characterized by:
 - Increasing competition; there is pressure to develop innovative strategies to avoid public apathy
 - Increasing costs and expectations; the public expect professional services but frown upon increased investment in fundraising
 - Donors, business, the State and individuals are demanding greater levels of accountability and transparency
 - Fundraising, whether on a voluntary or professional level is perceived to be an isolated responsibility with few avenues of support and limited opportunities for education and training to improve fundraising skills.

Given the dynamics of the fundraising environment, it is anticipated that in the future there will be:

- increasing disparity between small local charities and large national charities in terms of skills, capacity, growth and success;
- increasing pressure on medium to small sized charities to enhance the investment and the scale of their fundraising efforts or reduce their organizational goals. Fundraising can no longer be an add-on responsibility if smaller to medium-sized charities are to remain financially viable;
- smaller charities may have to pursue fundraising alliances and joint initiatives in an increasingly competitive environment.

These different fundraising experiences have implications for the successful introduction of the Codes of Good Practice on the operational aspects of fundraising. It is clear that these experiences must be taken into account in the

drafting, monitoring and enforcement of such Codes.

In particular, account must be taken of the personal nature of the relationship between smaller charities and their donor public. This is a context in which too much or badly designed regulation may be a constraint on such relationships. Larger charities, on the other hand, are better equipped to absorb another layer of administration and regulation may offer a public relations advantage among a donor public with which they have relatively formal relationships.

There is an increasing concentration in the practice of fundraising so that a smaller number of organizations are securing a larger amount of donations. Unless carefully designed and supported, Codes of Practice may serve to propel this dynamic. Codes of Practice therefore should be linked to organizational capacity and should acknowledge the reality that 6 out of 10 charities have fundraised incomes of less than €21,000.

3. RECOMMENDATIONS BASED ON CONSULTATIONS WITH CHARITIES AND THE GENERAL PUBLIC

To assist charities and members of the general public to make submissions, a detailed **Consultation Paper** was widely circulated, seeking views on the objectives of Codes of Good Practice on Charitable Fundraising and responses to a range of questions related to the achievement of those objectives.

Also a series of workshops for charities were held throughout the country (See Appendix Three) at which the participants discussed the questions raised in the Consultation Paper.

In addition, ICTRL commissioned the Centre for Nonprofit Management to provide the 'best estimate of the prevailing scale and practice of charitable fundraising in Ireland'. Details of this study are given in Section 2 of this Report and the full report can be downloaded from www.ictr.ie

All of the submissions received and the participants in the workshops welcomed the proposal to develop Codes of Good Practice on the operational and administrative aspects of charitable fundraising. Concerns were expressed, however, especially by smaller organizations that Codes of Good Practice might involve them in another layer of administration for which they are ill-resourced without offering any particular advantage to them.

There was a general recognition that the three key steps to achieving credible regulation by Codes of Good Practice will be:

- **Clear objectives:** the primary purpose for introducing Codes of Good Practice on the operational aspects of fundraising and the specific outcome to be achieved must be clear.
- **Content:** the Codes of Good Practice must contain clear and intelligible rules which set standards that are actively monitored and enforced, with an accessible complaints procedure and sanctions.

- **Structures:** any scheme to draft, monitor and enforce Codes of Good Practice must have a dedicated structure to police the Codes and decide when the rules are broken.

Many of the submissions highlight the variety of charities operating in Ireland and their differing size and capacity. This emerges very strongly in the Report of the Centre for Nonprofit Management.

The point is made throughout the submissions that the design and implementation of the Codes will need to strike a balance between enhancing public confidence while not being too onerous on charities. In particular account should be taken of the needs of smaller organizations where fundraising is local and personalized and their success depends on community ties and voluntary effort.

A number of submissions suggest that this balance might be achieved through:

- A threshold system which acknowledges the reality that 60 per cent of charities have incomes of less than €21,000 a year.
- A graduated set of rules/standards in the Codes e.g. setting out
 - (a) minimum legal obligations,
 - (b) what represents good practice and
 - (c) what represents best practice
- Support, guidance and training to assist charities to improve fundraising practices.

These suggestions are taken into account in the recommendations set out below. In particular, the recommendations recognize the difficulties the charities sector would have in establishing and funding on its own a dedicated structure to draft and actively monitor the Codes of Good Practice.

In that context account is also taken of the regulatory framework set out in the General Scheme for the Charities Regulation Bill 2006 and the need to maintain an integrated approach to the regulation of fundraising by charities.

The proposed legislation provides that the Charities Regulator will encourage and

facilitate the better administration and conduct of charities by way of issuing or approving guidance notes, best practice guidelines and codes of conduct. It also provides that the Regulator may establish Consultative Panels to consult with the charities sector on these issues. As indicated earlier, the Minister for Community, Rural and Gaeltacht Affairs will have a reserve power to introduce statutory regulation of the operational aspects of fundraising and the legislation provides that he will take into account the views of any Consultative Panel in this area.

Throughout this document text in *italics* indicates that the comments are drawn from input to the first consultation process whilst **bold** text is employed to highlight the proposed recommendations.

1. The Objectives of the Codes of Good Practice:

There is general agreement that the objectives of the proposed Codes of Good Practice on the operational aspects of fundraising should be to protect public donors through information, transparency, accountability and an accessible complaints system.

There is also a wish that charities, in particular smaller charities, should be actively supported to improve their fundraising practices.

It is recommended that the primary objective of the Codes of Good Practice on the operational aspects of charitable fundraising should be to protect the public interest through information, accountability and a complaints system to resolve individual complaints and disputes. In addition, the interest of donors should be protected by actively supporting charities to improve their fundraising practices.

2. The Types of Fundraising to be covered by the Codes:

There is general agreement that all forms of fundraising should be covered by the Codes of Good Practice. A number of submissions also propose that the images and language used in fundraising should be covered by the Codes.

It is recommended that all forms of fundraising should be covered by the Codes of Good Practice. Also the types of images and language used in fundraising should be covered by the Codes.

The scheme should commence with a Code setting down general principles that would apply to all forms of fundraising. In addition the Codes should include a code of conduct for charities and a donor's charter. In that context, the scheme should take account of existing Codes in the area of fundraising and Codes and legislation in other relevant areas e.g. data protection. As fundraising practices are continually developing and changing the Codes should be updated on a regular basis (see Recommendation 10).

3. Rules and Standards to be set by the Codes:

There is general agreement that the rules and standards set down by the Codes of Good Practice should be confined to the operational and administrative aspects of fundraising and should spell out minimum legal obligations (e.g. all public collections must have a permit from an Garda Síochána) and aspects of good practice.

As provided for in the proposed legislation, the rules and standards to be set by the Codes of Good Practice will cover the operational and administrative aspects of fundraising. In that context, it is recommended that the Codes should set out a graduated approach to practice as follows:

1. Identify the minimum legal standards set down in charities legislation to be followed by all charities.
2. Identify the set of standards that are regarded as appropriate good practice and which all charities are recommended to implement.
3. Identify the set of standards that correlates to best practice and which all charities are encouraged to employ, as befits their capacity.

As recommended earlier, the Scheme should commence with a Code setting down general principles that would apply to all forms of fundraising and be followed by all charities.

4. Drafting of Codes and Setting of Standards

There is a general belief that the charities sector should have the lead role in drafting the Codes of Good Practice and setting standards with professional assistance and a strong independent input.

Some submissions suggest that an Accreditation Body should be established by the charities sector to undertake this work while others suggest that an existing national representative charities group should draft the Codes. There is general agreement, however, as set out later, that the charities sector does not have the resources to carry out this function on its own. A number of respondents, while agreeing that the charities sector should have the lead role in drafting the Codes, proposed that in carrying out this function a strong link should be maintained with the proposed regulatory framework.

It is recommended that the charities sector should have the lead role in drafting the Codes of Good Practice and setting standards with professional assistance and a strong independent input.

To maintain an integrated approach to the regulation of charitable fundraising and access resources for this function, it is recommended that, as provided for in Section 42(f) of the proposed legislation, the Charities Regulator should establish a *Consultative Panel* to commission draft Codes of Good Practice and publish and promote those Codes. The Panel should be comprised of the charities sector, professionals specializing in this area (fundraisers, accounting, legal profession) and a strong independent input (to represent the general public and the State). A majority of the people on this Consultative Panel should be from the charities sector and reflect the profile of the sector (large and small, professional and voluntary).

Funding for the drafting, publication and promotion of these Codes should be provided by the State through the Regulator.

5. Promoting take-up of the Codes by Charities

A key question raised in the Consultation Document is how charities could be encouraged or obliged to adopt and abide by the Codes of Good Practice.

Two approaches are suggested in the submissions:

- *A voluntary approach where a seal of approval/kite mark would be issued to those charities which adopt the Codes and agree to abide by the fundraising standards set down in the Codes. The charities would publish the seal of approval/kite mark and their commitment to the standards on all fundraising material.*
- *A more compulsory approach where charities would be obliged to give a commitment to abide by the Codes and the fundraising standards when applying for permits to fundraise. Also public and private bodies which provide funds to charities would seek a commitment from charities to adopt and adhere to the Codes as one of the criteria for granting funds.*

The proposed Codes of Good Practice are non-statutory and are, therefore, not legally binding on charities. To promote take-up of the Codes, it is recommended that the Consultative Panel should examine ways and means by which incentives might be provided for those charities which adopt and utilize the Codes. When dealing with complaints the Codes should be taken into account by the Group monitoring the Codes, an Garda Síochána and the Regulator.

6. Monitoring of the Codes:

From the submissions, there is general agreement that the Codes of Good Practice should be actively monitored with a strong independent input. A number of suggestions are made in the submissions as to how this might be done:

- *The charities sector should establish/ identify a body to draft and monitor the Codes (though again it was recognized that the sector would not have the resources to fund such a body on its own)*
- *Adjudicating on complaints should be done by a body separate from the sector*
- *The Charities Regulator should establish a monitoring group to actively monitor the Codes*

As regards sanctions, there is general agreement that a graduated approach should be taken as follows:

- *The original complaint should be investigated by the charity involved*
- *If the complainant is not satisfied, a remedial agreement should be proposed by the monitoring body*
- *If the remedial agreement is not implemented, the monitoring body should have the options of naming and shaming, withdrawing the seal of approval/ permit, forwarding the complaint to the Charities Regulator.*

It is recommended that the Codes of Good Practice should be actively monitored with a strong independent input. The Charities Regulator should establish a Monitoring Group made up of the charities sector and a majority of independent members including an independent chair to deal with complaints and actively monitor usage of the Codes. The active monitoring should include not only responding to complaints but also the carrying out of random spot checks.

As regards the complaints system and sanctions, a graduated approach should be taken as follows:

- **Each charity should have a complaints procedure and any complaints should normally be investigated in the first instance by the charity involved.**
- **If the complainant is not satisfied, the matter should be further investigated and a remedial agreement proposed by the Monitoring Group.**
- **If the remedial agreement is not implemented, the Monitoring Group should have the option of notifying the Charities Regulator of the complaint and the failure by the charity to implement the remedial agreement.**
- **In addition the Monitoring Group should publish an Annual Report on the complaints received and the action taken.**

7. Funding of the Scheme for Developing Codes

Two broad suggestions were made in the submissions depending on the structures proposed:

- *The drafting and the promotion of the Codes should be undertaken and funded by the charities sector. The monitoring and enforcement should be undertaken by an independent body funded by the State/ Charities Regulator.*
- *The whole system (drafting/monitoring/enforcement) should be funded by the State.*

It is in the public interest and in the interest of the State, which depends on charities for the delivery of many social and personal services, that Codes of Good Practice on the operational aspects of fundraising are introduced and effectively monitored. It is recommended, therefore, that the State, through the Regulator, fund the scheme for drafting, promoting, and actively monitoring these Codes of Good Practice.

As outlined earlier the vast majority of charities are very small and would not be in a position, therefore, to fund such a scheme.

8. Supports for Charities

The point is made in all of the submissions that charities, in particular the smaller charities, will require training and support to assist them to know about the Codes, understand their obligations and improve their fundraising practices.

The key question is who should provide this support and how should it be funded?

The enactment of the Charities Regulation Bill, the establishment of the Charities Regulator and the introduction of Codes of Good Practice will place significant obligations and compliance costs on charities, large and small. These charities will require training and support to assist them to know about and understand the new obligations. They will also require support to improve their fundraising practices. It is appropriate that the charities sector should undertake this role. However, it should be recognized that to take on this role the sector will require funding from the State.

In that context, it is recommended that the charities sector should source and promote education and training programmes on fundraising practices for charities, in particular smaller charities. Funding should be available from the Department of Community, Rural and Gaeltacht Affairs for the development of these programmes.

9. North/South Co-operation

Given that Northern Ireland is also in the process of developing new charities legislation and that some charities in Ireland operate on an all-island /cross-border basis, it is important to consider how the two jurisdictions could potentially co-operate on regulating fundraising through Codes of Good Practice and how this might work in practice.

To examine these matters ICTRL established a North/South Task Group with key informants from both the public and charity sector in Northern Ireland to consider whether there could be a north – south dimension to:

1. Developing appropriate Codes of Good Practice for Ireland
2. Monitoring of the Codes, including an independent complaints procedure
3. Supporting the charity sector to adopt and implement the Codes
4. In the event that different Codes are adopted in each jurisdiction how can these be monitored in a co-operative manner for those charities that operate on an all-island/cross border basis?

Given that Northern Ireland is also in the process of developing charities legislation and that some charities in Ireland operate on an all-island/cross-border basis, the North – South Task Group should examine how the two jurisdictions could potentially co-operate in relation to regulating fundraising through Codes of Good Practice and how this might work in practice.

10. Review of the Scheme

Fundraising practices are continually developing and changing. It is important, therefore, that these practices are kept under review and the Codes updated on a regular basis.

It is recommended that the Consultative Panel monitor and evaluate the arrangements for drafting, promoting and monitoring the Codes of Practice on an ongoing basis and make changes if and when required.

Also as indicated earlier the proposed Charities Regulation Bill includes a reserve power for the Minister to introduce statutory regulation of the operational aspects of fundraising should the approach to regulation through Codes of Good Practice turn out to be inadequate or fail to provide the expected results.

It is recommended, therefore, that the overall scheme for developing Codes of Good Practice be reviewed by the Consultative Panel and the Charities Regulator after five years in line with the review of legislation. This review should take account of the work of the Monitoring Group.

11. Further Consultation

All of the submissions welcomed the consultation process and indicated that they would welcome an opportunity to comment on the draft proposals before they are finalized and submitted to the Department of Community, Rural and Gaeltacht Affairs.

It is recommended that the draft proposals for a scheme to develop and monitor Codes of Good Practice on the operational aspects of charitable fundraising be circulated widely, including to all those who made submissions and all of the participants in the workshops for their observations.

4. FURTHER CONSULTATIONS - HOW TO SUBMIT YOUR VIEWS

These draft proposals are being circulated widely, including to all those who made submissions and all of the participants in the workshops for their views.

You may submit your views:

- 1. By e-mail to:** ictr@iol.ie
- 2. By fax to:** Sheila Nordon, ICTR Ltd –
Fax No. 01- 453 1862
- 3. In writing to:**
Sheila Nordon
Executive Director
Irish Charities Tax Research Ltd
ISFC
10 Grattan Crescent
Inchicore
Dublin 8

The closing date for receipt of submissions is **Thursday 31st May 2007.**

As indicated earlier, Irish Charities Tax Research Ltd (ICTRL) has commissioned independent consultant Peter Cassells to undertake the feasibility study on the development of Codes of Good Practice for charitable fundraising.

ICTRL has also established a Steering Committee to oversee the feasibility study and approve the outputs. The names of the members of the Steering Committee are given in Appendix Two. These members were chosen for their expertise and are serving on the Steering Committee in a personal capacity.

Your views will be taken into account by Mr. Cassells and the Steering Committee before they submit their final proposals for the development of Codes of Good Practice on the operational aspects of charitable fundraising to the Department of Community, Rural and Gaeltacht Affairs.

APPENDIX ONE: SUMMARY OF RECOMMENDATIONS

These draft proposals are based on the submissions received from individual charities and members of the general public in response to the Consultation Paper and the views expressed at the various workshops.

They take account of the findings and conclusions of the Report on the *Practice and Scale of Charitable Fundraising in Ireland* from the Centre for Nonprofit Management. Account is also taken of the regulatory framework set out in the General Scheme for the Charities Regulation Bill and the need to maintain an integrated approach to the regulation of fundraising by charities.

Objectives of Codes of Good Practice (Recommendation No. 1)

The primary objective of the Codes of Good Practice on the operational aspects of charitable fundraising should be to protect the public interest through information, accountability and a complaints system to resolve individual complaints and disputes.

In addition, the interest of donors should be protected by actively supporting charities to improve their fundraising practices.

Types of Fundraising to be covered by Codes (Recommendation No. 2)

All forms of fundraising should be covered by the Codes of Good Practice. Also the types of images and language used in fundraising should be covered by the Codes.

The scheme should commence with a Code setting down general principles that would apply to all forms of fundraising. In addition the Codes should include a code of conduct for charities and a donor's charter. In that context the scheme should take account of existing Codes in the area of fundraising and Codes and legislation in other relevant areas e.g. data protection.

As fundraising practices are continually developing and changing the Codes should be updated on a regular basis.

Rules and Standards to be set by the Codes (Recommendation No. 3)

As provided for in the proposed legislation, the rules and standards to be set by the Codes of Good Practice will cover the operational and administrative aspects of fundraising. The Codes should set out a graduated approach to practice as follows:

1. Identify the minimum legal standards set down in charities legislation to be followed by all charities.
2. Identify the set of standards that are regarded as appropriate good practice and which all charities are recommended to implement.
3. Identify the set of standards that correlates to best practice and which all charities are encouraged to employ, as befits their capacity.

As recommended earlier, the Scheme should commence with a Code setting down general principles that would apply to all forms of fundraising and be followed by all charities.

APPENDIX ONE: SUMMARY OF RECOMMENDATIONS (CONTINUED)

Drafting of Codes and Setting of Standards (Recommendation No. 4)

The charities sector should have the lead role in drafting the Codes of Good Practice and setting standards with professional assistance and a strong independent input.

To maintain an integrated approach to the regulation of charitable fundraising and access resources for this function, the Charities Regulator as provided for in Section 42(f) of the proposed legislation, should establish a **Consultative Panel** to commission draft Codes of Good Practice and publish and promote those Codes. The Panel should be comprised of the charities sector, professionals specializing in this area (fundraisers, accounting, legal profession) and a strong independent input (to represent the general public and the State).

A majority of the people on this Consultative Panel should be from the charities sector and reflect the profile of the sector (large and small, professional and voluntary).

Funding for the drafting, publication and promotion of these Codes should be provided by the State.

Promoting take – up of Codes by Charities (Recommendation No. 5)

The proposed Codes of Good Practice are non–statutory and are, therefore, not legally binding on charities. To promote take-up of the Codes, the Consultative Panel should examine ways and means by which incentives might be provided for those charities which adopt and utilize the Codes. Also the Codes should be taken into account by the Group monitoring the Codes, an Garda Síochána and the Regulator when dealing with any complaints.

Monitoring of the Codes (Recommendation No. 6)

The Codes of Good Practice should be actively monitored with a strong independent input.

The Charities Regulator should establish a **Monitoring Group** made up of the charities sector and a majority of independent members including an independent chair to deal with complaints and actively monitor usage of the Codes. This active monitoring should include not only responding to complaints but also the carrying out of random spot checks.

As regards the complaints system and sanctions, a graduated approach should be taken as follows:

- Each charity should have a complaints procedure and any complaints should normally be investigated in the first instance by the charity involved.
- If the complainant is not satisfied, the matter should be further investigated and a remedial agreement proposed by the Monitoring Group.
- If the remedial agreement is not implemented, the Monitoring Group should have the option of notifying the Charities Regulator of the complaint and the failure by the charity to implement the remedial agreement.
- In addition the Monitoring Group should publish an Annual Report on the complaints received and the action taken.

APPENDIX ONE: SUMMARY OF RECOMMENDATIONS (CONTINUED)

Funding of the scheme for developing Codes of Good Practice (*Recommendation No. 7*)

It is in the public interest and in the interest of the State, which depends on charities for the delivery of many social and personal services, that Codes of Good Practice on the operational aspects of fundraising are introduced and effectively monitored and enforced. It is recommended therefore that the State, through the Regulator, fund the scheme for drafting, promoting and actively monitoring these Codes of Good Practice.

As outlined earlier the vast majority of charities are very small and would not be in a position, therefore, to fund such a scheme.

Supports for Charities (*Recommendation No. 8*)

The enactment of the Charities Regulation Bill, the establishment of the Charities Regulator and the introduction of Codes of Good Practice will place significant obligations and compliance costs on charities, large and small. These charities will require training and support to assist them to know about and understand the new obligations. They will also require support to improve their fundraising practices. It is appropriate that the charities sector should undertake this role. However, it should be recognized that to take on this role the sector will require funding from the State.

In that context, the charities sector should source and promote education and training programmes on fundraising practices for charities, in particular smaller charities. Funding should be available from the Department of Community, Rural and Gaeltacht Affairs for the development of these programmes.

North–South Co–operation (*Recommendation No. 9*)

Given that Northern Ireland is also in the process of developing new charities legislation and that some charities in Ireland operate on an all–island/cross border basis, the North–South Task Group should examine how the two jurisdictions could potentially co-operate in relation to regulating fundraising through Codes of Good Practice and how this might work in practice.

Review of the Scheme (*Recommendation No. 10*)

The Consultative Panel should monitor and evaluate the arrangements for drafting, promoting, and monitoring the Codes of Good Practice on an ongoing basis and make changes if and when required.

The overall scheme should be reviewed by the Consultative Panel and the Charities Regulator after five years in line with the review of the legislation. This review should take account of the work of the Monitoring Group.

In that context, it should be noted that the proposed Charities Regulation Bill includes a reserve power for the Minister for Community, Rural and Gaeltacht Affairs to introduce statutory regulation of the operational aspects of fundraising should the approach to regulation through Codes of Good Practice turn out to be inadequate or fail to provide the expected results.

Further Consultation (*Recommendation No. 11*)

It is recommended that the draft proposals for a scheme to develop and monitor Codes of Good Practice on the operational aspects of charitable fundraising be circulated widely, including to all those who made submissions and all of the participants in the workshops for their observations.

APPENDIX TWO: STEERING COMMITTEE

Andrew O'Regan	Centre for Nonprofit Management TCD
Caitriona Fottrell	The Ireland Funds
Freda Donoghue	Centre for Nonprofit Management TCD
James Cassidy	(previously Head of Fundraising Irish Cancer Society)
Mary Moorhead	The Mater Foundation
Niamh Sheeran	Niamh Sheeran & Associates – Fundraising Consultants
Oonagh Breen	School of Law, UCD
Paddy Maguinness	Concern
Philip Smith	Arthur Cox
Richard Dixon	Concern
Siobhan McGee	Centre for Nonprofit Management TCD & Fundraising Consultant
Teresa Harrington	Pricewaterhouse Coopers

SHEILA NORDON Executive Director Irish Charities Tax Research Ltd

PETER CASSELLS Peter Cassells is an independent consultant with Peter Cassells Consultants Ltd. Mr. Cassells is chair of the National Centre for Partnership and Performance and former General Secretary of the Irish Congress of Trade Unions.

APPENDIX THREE: CONSULTATION PROCESS – WORKSHOPS AND SUBMISSIONS

Consultation Process

1. As part of the consultation process with the charity sector ICTR organised a series of consultation workshops during October/November 2006 as follows:

Date	Venue
17th October 2006	The Fairways Hotel, Dundalk
18th October 2006	The Sligo Park Hotel, Sligo
19th October 2006	Galway Bay Hotel, Galway
24th October 2006	The Ormond Hotel, Kilkenny
25th October 2006	The Clarion Hotel, Cork
7th November 2006	The Gresham Hotel, Dublin

Responses from participants were fully recorded and everyone was encouraged to make written submissions by the 15th December 2006.

2. Notice of the **Public Consultation Process** was placed in the national press during October 2006 seeking submissions in response to the first consultation document by the 15th December 2006.

List of submissions received on the Regulation of Fundraising by Codes of Practice – December 2006

Number	Received From	Representing
1.	Maurice Fitzgerald	Individual
2.	Missionaries of the Sacred Heart	Organisation
3.	Disability Federation of Ireland	Umbrella Body
4.	Cork Counselling Services	Organisation
5.	The Not for Profit Business Association	Umbrella Body
6.	FICTA (Federation of Irish Complementary Therapy Associations)	Umbrella Body
7.	Rape Crisis Network Ireland	Umbrella Body
8.	UNICEF Ireland	Organisation
9.	IFFDR (Irish Fundraising Forum for Direct Recruitment)	Umbrella Body
10.	Amnesty International	Organisation
11.	Carrigan Consulting (fundraising and management)	Organisation
12.	Focus Ireland	Organisation
13.	The Care Trust Ltd.	Organisation
14.	The UK Institute of Fundraising	Umbrella Body - UK
15.	The Mothers' Union of Ireland	Umbrella Body
16.	Irish Equine Foundations Ltd	Organisation
17.	Inclusion Ireland	Umbrella Body
18.	The Wheel	Umbrella Body
19.	The Hope Foundation	Organisation
20.	ISPCC	Organisation
21.	Brothers of Charity Services	Organisation
22.	Meningitis Research Foundation	Organisation
23.	Childfund Ireland	Organisation
24.	David McCabe	Individual
25.	Michael Johnston	Individual
26.	Kerry Hospice Foundation	Organisation
27.	Dublin City Business Association	Umbrella Body
28.	St. Francis Hospice	Organisation
29.	Thomas Ralph	Individual
30.	P. Fitzgerald	Individual
31.	Alan Deary	Individual
32.	OXFAM Ireland	Organisation

Notes

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