

Code of Practice

Collections for Charitable Purposes Act 1939



CODE OF PRACTICE

(Under section 12(2)(b) of the *Collections for Charitable Purposes Act 1939*)

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.

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;
- (f) ensure collectors' rights are respected by licensees; and
- (g) ensure compliance with the provisions and objects of the *Collections for Charitable Purposes Act 1939*.

4 Interpretation

(1) In this code of practice:

annual cost means the cost to the donor for a period of twelve months from the commencement of the ongoing collection agreement and includes the ongoing donation and any other charges associated with the ongoing collection agreement.

charity means the holder of a section 6 licence pursuant to the *Collections for Charitable Purposes Act 1939*. 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.

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collector means a person who (either personally or through the agency of another person)—

- (a) collects, or attempts to collect, money or property wholly or partly for a charitable purpose; or
- (b) charges, or attempts to charge, for admission to an entertainment in relation to which it is held out that the proceeds are to be devoted wholly or partly to a charitable purpose; or
- (c) obtains, or attempts to obtain, money wholly or partly for a charitable purpose by the sale of a disc, badge, token, flower, ribbon or other device; or
- (d) obtains, or attempts to obtain, a bequest, devise or other grant of money or property wholly or partly for a charitable purpose.

commonwealth registered entity means an entity registered under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth.

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

display promotional material means any poster, placecard, notice or sign and includes any advertisement in a newspaper, magazine or other publication.

event means an organised event at which funds may be collected for a charitable purpose irrespective of where the event is held.

non-residential premises means any premises not for occupation as a place of residence, including, but not limited to, any premises in respect of which a licence granted under the *Liquor Licensing Act 1997*, as amended, is in force, coffee shops, retail shops, shopping centres and any outdoor or footpath areas associated with those premises.

ongoing collection agreement means an agreement between a donor and a charity for the regular payment of donations on an ongoing basis.

public space means a place where the public is permitted to have access whether upon payment of money or not, other than an event or non-residential premises.

residential premises means a privately owned home or place of dwelling.

supervision means monitoring the collection activity and ensuring that it is carried out in a manner that does not put the safety of the collector at risk.

termination notification means notification of the termination of an ongoing collection agreement and includes notification given verbally, or in writing or by any electronic means.

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unsolicited collection means where a person acts as a collector and where a relationship has not been established with the potential donor.

- (2) Expressions defined in the *Collections for Charitable Purposes Act 1939* have the same meanings in this code of practice.

5 Mandatory nature of the code

- (1) Under section 12(2)(b) of the *Collections for Charitable Purposes Act 1939*, 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, licence conditions imposed by or under the *Collections for Charitable Purposes Act 1939*.
- (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 *Collections for Charitable Purposes Act 1939*.

Part 2—Required practices

6 Hours and Location of Collection Activities

Unless otherwise authorised by the Minister or the Commissioner, a person may only act as a collector as follows:

- (1) **unsolicited collection at a residential premises** (door to door) on:
- (a) Weekdays - between the hours of 9am and 6pm;
 - (b) Saturdays - between the hours of 9am and 5pm;
 - (c) Sundays - between the hours of 11am and 5pm; and
 - (d) Public Holidays (other than Good Friday, Easter Sunday or Christmas Day) - between the hours of 11am and 5pm.
- (2) **unsolicited collection by telephone** in accordance with the existing restrictions under the Australian Communications and Media Authority's *Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007*, including, but not limited to, the following restrictions which prevent calls on:
- (a) a weekday before 9am;
 - (b) a weekday after 8pm;
 - (c) a Saturday before 9am;
 - (d) a Saturday after 5pm;
 - (e) a Sunday; or
 - (f) a Public Holiday as defined in the *Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007*.

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- (3) **unsolicited collection in a public space** on:
- (a) Weekdays - between the hours of 7am and 6pm;
 - (b) Saturdays - between the hours of 9am and 5pm;
 - (c) Sundays - between the hours of 11am and 5pm; and
 - (d) Public Holidays (other than Good Friday, Easter Sunday or Christmas Day) - between the hours of 11am and 5pm.
- (4) **at an event** - only in those areas of the event, and for the period of time, authorised by the organiser of the event.
- (5) **unsolicited collection at a non-residential premises** - only in those areas of the premises, and for the period of time, authorised by the owner or the person in charge of the premises.
- (6) Collection on Good Friday, Easter Sunday or Christmas Day is prohibited except for collection made via the internet.

7 Identification requirements for collectors

- (1) The charity must ensure that collectors participating in unsolicited collections at a residential premises, non-residential premises, in a public space or collections at an event, wear a badge that includes the following details:
- (a) whether the collector is a volunteer or paid collector;
 - (b) the collector's name or, if the person is issued with a unique identifier by the holder of the section 6 licence under which the person is authorised to act as a collector, that unique identifier;
 - (c) the name of the licensed charity; and
 - (d) the telephone contact or website details of the charity.
- (2) The charity must ensure that collectors wear the badge in a manner so that it is visible to the public at all times.
- (3) The charity must ensure that collectors participating in unsolicited collections by telephone disclose the following details:
- (a) whether the collector is a volunteer or paid collector;
 - (b) the collector's name or, if the person is issued with a unique identifier by the holder of the section 6 licence under which the person is authorised to act as a collector, that unique identifier; and
 - (c) the name of the licensed charity.

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8 Ongoing collection agreements

In relation to ongoing collection agreements the following requirements apply:

- (1) If a charity contacts a potential donor by telephone to negotiate an ongoing collection agreement, the following information must be provided to the potential donor, prior to the agreement being made:
 - (a) the amount of the proposed ongoing donation;
 - (b) the annual cost to the donor;
 - (c) the proposed frequency of the ongoing donation;
 - (d) a statement that the donor has a right to terminate an ongoing collection agreement at any time; and
 - (e) details about how the donor can terminate the ongoing collection agreement.
- (2) If a charity allows an ongoing collection agreement to be made over the internet, the following information must be provided to the potential donor on the same page as that on which the donor confirms and accepts the terms of the agreement:
 - (a) the amount of the proposed ongoing donation;
 - (b) the annual cost to the donor;
 - (c) the proposed frequency of the ongoing donation;
 - (d) a statement that the donor has a right to terminate an ongoing collection agreement at any time; and
 - (e) details about how the donor can terminate the ongoing collection agreement.
- (3) Within ten business days of the agreement being made, the charity must provide to the donor, written confirmation of the terms of the agreement. If an ongoing collection agreement is entered into by telephone or internet, the charity must provide the donor with written confirmation of the agreement by email or post.
- (4) Written confirmation must include:
 - (a) the amount of the agreed ongoing donation;
 - (b) the annual cost to the donor;
 - (c) the frequency of the agreed ongoing donation;
 - (d) the date of the commencement of the agreement;
 - (e) a statement that the donor has a right to terminate an ongoing collection agreement at any time; and
 - (f) details about how the donor can terminate the ongoing collection agreement.
- (5) Upon receipt of a termination notification from a donor with an ongoing collection agreement, the charity must immediately terminate that agreement.
- (6) Any donation collected after receipt of notification from a donor to terminate an ongoing collection agreement must be refunded within ten business days.

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- (7) Any termination of an ongoing collection agreement must be confirmed in writing by email or post to the donor within ten business days of the donor's request to terminate the agreement.

9 Promotion of collection activities

A charity must ensure the promotion of collection activities complies with the following requirements:

- (1) **charity websites** must include either on the home page, or by way of a link from the home page, the following details:

- (a) the charity's name;
- (b) the purpose for which funds are being collected; and
- (c) contact details of the charity.

- (2) **display promotional material** must include the following details:

- (a) the charity's name;
- (b) the purpose for which funds are being collected; and
- (c) contact details of the charity.

- (3) **radio advertising** must include the following details:

- (a) the charity's name; and
- (b) the purpose for which funds are being collected.

- (4) **television advertising** must include the following details:

- (a) the charity's name; and
- (b) the purpose for which the funds are being collected.

- (5) **internet advertising** must include the following details:

- (a) the charity's name;
- (b) the purpose for which funds are being collected; and
- (c) the charity's website (if any).

10 Receipts

- (1) Upon request by the donor, the charity must ensure that collectors issue a receipt for any monetary donation of \$2 or greater.

- (2) The charity must ensure that receipts issued include the following details:

- (a) the date the receipt was issued;
- (b) a unique receipt number;
- (c) the amount of the donation received; and
- (d) the charity's name.

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11 Health and safety of collectors

- (1) The charity must ensure that no person under the age of 15 years acts as a collector, unless they are under the supervision of a responsible adult over the age of 18 years.
- (2) If a charity allows a person under the age of 15 years to act as a collector, the charity must prepare and maintain a written underage collection policy that addresses collection activities by persons under the age of 15 years.
- (3) The charity must prepare and maintain a written health and safety policy that sets out procedures to:
 - (a) protect collectors from exposure to extreme weather conditions, including a provision to suspend the collection activities of volunteer collectors when extreme weather conditions affect the area in which they are collecting; and
 - (b) monitor collectors who work alone and to identify circumstances in which it is inappropriate to work alone.

12 Disclosure by collectors - Information sheet

- (1) The charity must develop and provide to all collectors, an information sheet that is available to view on the charity's website and upon request to a member of the public.
- (2) The information sheet must contain the following information:
 - (a) the name, contact details and website of the charity ;
 - (b) the purpose for which the funds are being collected;
 - (c) details of restrictions on collection hours;
 - (d) requirement to provide a receipt, on request, for monetary donations of \$2 or more;
 - (e) details in relation to ongoing collection agreements including the requirement for written confirmation and how donors can cease an ongoing collection agreement;
 - (f) a summary of the charity's health and safety policy (including the extreme weather policy) and how to obtain a copy; and
 - (g) a summary of the charity's underage collection policy and how to obtain a copy.