

FUNDRAISING AND THE LAW

Most groups need to raise .As well as applying for grants, groups might opt to raise funds through fundraising. This can be done in a variety of ways for no cost or by incurring a little or a large expenditure. Producing a strategy for raising funds is a useful exercise that helps groups decide what they want funds for, how much, and over what period of time. Such a strategy could be a long-term plan to raise enough money to keep a group running for a defined period of time such as five years. Another example is to raise a set amount of money for some capital project within a time limit. Groups might also want to raise money for one off occasions to either donate to a cause, which members feel is worth helping, or to raise a small amount of money to help grants last longer or go further



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Most people set off down the road of raising funds without any understanding of the law that relates to the activities that they undertake. There are a variety of laws that apply to most activities and a licence may be required for some.

The main licences are:

- ◆ Premises Licence
- ◆ Supply of Alcohol Licence
- ◆ The provision of Late Night Refreshment Licence
- ◆ Gaming & Lottery Licence
- ◆ Performing Rights Society Licence/Phonographic Performance Limited
- ◆ Street Collections Licence
- ◆ House-to-House Collections Licence

THE LICENCING ACT 2003

The Licensing Act 2003 establishes a single integrated scheme for licensing premises, which are used for:

- ◆ The supply of alcohol
- ◆ The provision regulated entertainment (replaces public entertainment)
- ◆ The provision of late night refreshment (newly introduced in the 2003 Act)

One licence that incorporates some or all of the above is now needed and local authorities are now the issuing body. The licence is applied for once and is valid for the life of the organisation supplying alcohol and/or entertainment. There is a fee for the initial licence and an annual fee, although there are some exemptions. The fees have been set by national government and are based on the rateable value of premises; this means that all local authorities will charge the same fee. A Premises Licence will be need for any premises, (including fields and sports grounds) which are used for licensable activities. This will mean that some activities run by voluntary groups will have to have a licence for the first time. Some events such as Carnivals, Village Fetes, Fayers and some sporting events will now probably need a licence, as some of the activities will now be regulated entertainment.

Regulated entertainment as defined in the act includes

- ◆ The performance of a play
- ◆ Film exhibitions
- ◆ Indoor sporting events
- ◆ Boxing or wrestling events
- ◆ Performing live music
- ◆ Playing recorded music
- ◆ Dance performance
- ◆ And entertainment of a similar kind

Late night refreshment as defined in the Act means the supply of hot food or drink to members of the public on or from premises at any time between the hours of 11.00p.m. and 5.00 a.m.

The sale of alcohol is self-explanatory but there is a major change. At premises where alcohol is to be sold a Designated Premises Supervisor is needed. To be a Designated Premises Supervisor you need to hold a Personal Licence. To be eligible for a Personal Licence you must be over 18 years and possess a licensing qualification. There is a fee for the licence which lasts for 10 years, but beware the licence will go with the individual should they leave the organisation.

If you provide any entertainment that might need a licence contact your local authority. Make sure you explain what sort of group you are, where the event is to take place and give them as much detail as possible so that they can determine whether or not you need a licence and if there is a fee to pay.

GAMING & LOTTERIES LICENCE

The Gaming & Lotteries Licence is the one most often needed by groups at some time. It is also the one that there is the most misconception about.

A Gaming & Lotteries Licence is not always needed to run a raffle, tombola or other gambling activities but there are a lot of rules that have to be kept.

A Lottery is unlawful unless it is:

- ◆ a small lottery, e.g. raffle, tombola
- ◆ a private lottery – limited to a specific group of participants and cannot be publicly advertised
- ◆ a society lottery – promoted on behalf of a society and the proceeds are not used for private gain or a commercial undertaking.

Links has a separate sheet detailing the rules for each type of Lottery

BINGO

Under certain circumstances Bingo may lawfully be played without a Licence, Registration or the paying of duty, but again there are a number of rules that must be kept and profits must not be used for private gain. Although there is registration and licensing for the playing of Bingo, it is not usual that they apply to voluntary groups. Licensing is only for commercial Bingo operated for private gain. Registration is generally for Private Members' Clubs where other forms of gaming can also take place. Bingo is duty free if played in accordance with Sections 15, 40 & 41 of the Gaming Act. All the conditions in any one section must be applied at the same time and parts of one Section cannot be used and mixed with parts of another.

Section 41 is the most often used section, but groups should note that this section is not applicable to premises registered as Licensed under the Act or to gaming by machine. There is no restriction on the participation of people under eighteen. Links has a separate sheet detailing the rules of sections 15, 40 & 41.

PERFORMING RIGHTS SOCIETY LICENCE

This is basically a copyright licence that allows groups to stage live performances of music without having to get permission from individual copyright owners. The Performing Rights Society (PRS) is a non profit making association set up in 1941 and as most music creators and publishers have assigned their performance rights to PRS, its blanket annual licence makes it easy for groups to fulfil their legal obligations to countless copyright owners. Most buildings that are rented out do have a public entertainment licence and there is no need for the hirer to get their own.

PHONOGRAPHIC PERFORMANCE LIMITED

Phonographic Performance Limited (PPL) is a separate licensing body, representing manufacturers of sound recordings (physical tapes, discs and records) on which original musical works (controlled by PRS) may be carried. So where music is played from discs or tapes a PRS and PPL licence may be necessary. You may find that individual disc jockeys, aerobics and dancing instructors hold their own personal licenses from PPL so you don't need one as well. If you need a PPL, Community Matters runs a scheme for voluntary groups; for more information contact them, Tel: 020 7226 0189.

STREET COLLECTIONS

Groups cannot collect on the street or in a public place without permission and should ensure that they:

- ◆ name a promoter (an individual not the group must obtain a permit)
- ◆ obtain a permit
- ◆ give written authority to each collector
- ◆ make sure that collectors comply with the relevant regulations
- ◆ do not stray beyond the area of the permit
- ◆ prepare the return in accordance with the relevant regulations

Permits are obtained from the local authority in which the collecting is to take place, e.g. if collecting in Clay Cross, North East Derbyshire District Council is the licensing authority. If collecting in Chesterfield, Chesterfield Borough Council is the licensing authority.

HOUSE-TO-HOUSE COLLECTION LICENCE

Groups also need a permit from the local authority to collect house-to-house. The rules are similar to those for street collecting and groups should ensure that:

- ◆ they name a promoter
- ◆ no collector is under 16
- ◆ money is placed only in a collecting box
- ◆ every collector returns the collecting box to the promoter
- ◆ each collector is issued with:
 - a certificate of authority
 - a badge
 - a collecting box

An envelope collection requires the specific consent of the Home Secretary and the regulations lay down specific rules as to the form of envelopes. This is not worth considering unless you collect regularly from a number of people or want to collect from a large area.

The House-to-House Collections Acts apply not only to collections for money but also to collections for other property, e.g. jumble, newspapers and stamps. The sale of goods or raffle tickets by means of visits from house to house will also constitute a house-to-house collection and a license is needed.

NB: The rules for street collection and house to house collections might change. When the new Charities Bill becomes an Act.

SPONSORED EVENTS

When organising a sponsored event of any kind always do a risk assessment. Ask question like:

- ◆ What is likely to go wrong?
- ◆ What precautions can be taken?
- ◆ What else is happening in the area?
- ◆ Is the activity safe?
- ◆ Will the activity be suitable for all people?
- ◆ How many people can you count on for help?
- ◆ Who needs to be informed? e.g. Police, parents
- ◆ What sort of back up is needed? e.g. stewards, first aiders

INSURANCE

Groups must make sure that they have the appropriate insurance to cover fundraising activities. Public liability insurance is the minimum and can be taken out for a single event or for a year. Other forms of insurance might be necessary to cover volunteers or any paid staff. If you have caterers and bars at your event you must be sure that they have their own public liability insurance. You don't want to be liable for giving people food poisoning.

Charities need to be careful when it comes to trading. Trading is defined as selling goods or services not part of the charity's primary purpose. Selling things such as Christmas cards comes into this category and can be done as long as the income from such sales is no more than 10% of the charity's turnover.

Links believes that this information is correct at the time of publication, however details may change.
You are advised to contact Links for the up to date position and seek legal advice where appropriate.

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