

LEGACY POLICY – DRAFT

21st February 2018

MUST* and **MUST NOT*** (with asterisk) denotes legal requirement

MUST and **MUST NOT** (without asterisk) denotes requirement of the Code of Fundraising Practice

1.0 KEY PRINCIPALS

- a) Film and Television Charity (FTC) members of staff or visitors **MUST NOT*** exert undue influence on a potential legator (the person/s who wishes to make the Will).
- b) The FTC **MUST** ensure that all legacy fundraising activity is undertaken whilst considering:
- the duty of trustees to optimise the benefit to the charity
 - the potential legator's freedom to provide for her/his family and others; and
 - the sensitivities of the potential legator and his/her family and friends.
- c) The FTC **MUST** ensure members of staff or visitors do not provide legal advice.

2.0 UNDERTAKING LEGACY FUNDRAISING

- a) Whenever legacy fundraising is done by an external third party who is a professional fundraiser, this fundraising **MUST*** comply with professional fundraising legal obligations.
- b) The FTC or any of its officers or employees/visitors should not act as an executor to a potential legator's Will.
- c) The FTC **MUST** ensure that any incentives and recognition devices shown towards its officers or employees /visitors from a Will are of appropriate value, which will usually be of minimal cost.

2.1 Written Communications Seeking Legacies

- a) The FTC **MUST** make clear that the contents are not intended to constitute legal advice by the organisation and those potential legators should seek their own professional advice.
- b) If the FTC provides potential legators with suggested wording regarding the name or company/charity details to be included in their Wills, they **MUST** ensure that the suggested wording is accurate (which may involve seeking legal advice) and that the FTC is correctly identified.
- c) To identify the FTC the following information should also be including on all written communications: The Film and Television Charity registration details are:

The Film and Television Charity, 22 Golden Square, London W1F 9AD
Registered Charity no: 1099660, Registered Company (England and Wales) no: 4816786

2.2 Communicating in Person

- a) The FTC **MUST** consider the needs and situation of vulnerable individuals before embarking on face-to-face legacy fundraising activity.
- b) If holding an event that is solely about legacies or where legacies will be discussed and potentially solicited, the FTC **MUST** be open about the reason for the invitation to an event.
- c) Event organisers **MUST NOT** be exploitative in their 'use' of beneficiaries or supporters as case studies or testimonials, and **MUST** respect their dignity and privacy.
- d) Individual face-to-face meetings in a potential legator's home to discuss legacies **MUST NOT** occur without that person having first had the opportunity to decline the meeting.
- e) In all individual face-to-face legacy fundraising, FTC staff and visitors **MUST**:
- accept the right of the potential legator to invite a third party of their choice to be present at any stage of the face-to-face meeting(s);
 - remind the potential legator of the purpose of their face-to-face visit;
 - ensure that the meeting is undertaken in a manner and at a length sensitive to, and suiting the interests and concerns of, the particular potential legator and **MUST*** ensure that FTC staff and visitors behaviour cannot be construed as threatening or exerting undue pressure or influence;
 - accept the right of the potential legator to terminate the face-to-face meeting at any time, and will accept the termination promptly and courteously; and make and retain attendance notes of meetings and communications with the potential legator on file.

2.3 FTC Staff/Visitors' Involvement in Making a Will

If the witness to the Will is the beneficiary or a connected person to the FTC, the validity of the will could be challenged.

- a) FTC staff and visitors **MUST NOT** draft or be directly involved in drafting Wills in favour of the organisation.
- b) FTC staff and visitors **MUST** ensure that they are absent at all times during the preparation, drafting and signing of the Will.
- c) Witnesses to a Will where the FTC is a beneficiary **MUST** be independent of the FTC, including staff and volunteers, to avoid any risk of "undue influence" which could affect the validity of the legacy.

2.4 FTC Staff/Visitors' Relationships with Potential Legators

Close relationships can develop between an FTC staff member/visitor and a potential legator. This can sometimes favour the member of staff/visitor rather than the FTC, and a legacy may be left to the individual in their personal capacity, rather than to the FTC.

- a) If a legacy is offered in a personal capacity, FTC Staff members/visitors **MUST** explain that, should the legator wish to give a legacy to him/her personally, then the FTC Staff member/visitor **MUST** disclose the gift to his/her line manager at the FTC.
- b) FTC Staff members/visitors **MUST NOT** take advantage of their employment/volunteering by the organisation to solicit a personal legacy.
- c) If the FTC considers that a Staff member/Visitor has abused their position and has solicited a personal legacy, the FTC **MUST** follow disciplinary procedures for dealing with such situations.

2.5 Paying for Wills with Charity Funds

- a) FTC Staff members/visitors **MUST NOT** make it a condition that the FTC is included in the Will and **MUST NOT*** exert undue influence on potential legators.
- b) In England and Wales, the FTC will take account of any guidance issued by the Charity Commission in relation to paying for Wills with FTC funds.

3 AFTER A LEGACY HAS BEEN MADE

3.1 Ongoing Contact with Legators

- a) The FTC **MUST*** respect the wishes of the legator if they want no further marketing communications (which would include any fundraising requests) from the FTC or, wherever possible, if they request a certain level of contact.
- b) If a legator or potential legator asks the FTC to explain to disinherited family members why they are being disinherited, the FTC **MUST** decline or otherwise only explain why the organisation needs the legacy.

3.2 Conditional/Restricted Gifts

- a) If a legacy is left with a request/wish, rather than subject to conditions, organisations **MUST** consider whether to comply with the legator's wishes.
- b) If a legacy is left on condition of, or subject to, a binding obligation that it must be used for a particular purpose or project or such like, organisations **MUST** contact the administrator/executor if the conditions cannot be fulfilled before accepting the legacy or, otherwise, if the conditions can be fulfilled and the legacy is accepted, the organisation **MUST*** follow those conditions.
- c) In Scotland, if a legacy or gift is given for a specific purpose but the purpose has been fulfilled or otherwise provided for, can no longer be given effect to, has ceased to be charitable, has ceased to be a suitable and effective use of the funds or does not provide a use for all of the funds, the FTC **MUST** consider applying to the Office of the Scottish Charity Regulator ([OSCR](#)) to reorganise the restricted fund in order to allow the restricted fund to be used to better effect in a way that is consistent with the charity's constitution. However, the FTC **MUST NOT*** use restricted funds for a different purpose unless OSCR grants such a reorganisation application.

3.3 Administering Legacies and Gifts

- a) The FTC **MUST** respect the legator's or their estate's wishes about any public recognition of the gift.
- b) Where case studies are sought, permission **MUST** be obtained from the next of kin, where possible.

Note: This policy has been adapted from the Fundraising Regulator's Code of Fundraising Practice, 1 November 2017