

Registering for charitable status

This factsheet should be read in conjunction with '**How to start up a new voluntary and community group**' factsheet, the '**Legal Structures**' factsheet and guidance from the Charity Commission.

Charities are a type of voluntary organisation that benefits the public in a way that the law recognises as a charitable purpose.

Charities are run by 'trustees' – these trustees (also known as a Board or Committee) are ultimately responsible for the charity.

Why become a registered charity?

Most charities with an annual income of over £5,000 have to register with the Charity Commission. Although charities with an income of £5,000 or less (and some others) don't have to register, they still have to abide by Charity law. Many of these smaller organisations still choose to register or to adopt a 'small charity constitution' through the Charity

Commission.

The main advantages of registering for charitable status are:

- **Funding** - Charities are often able to raise funds from the public, grant-making trusts and local government more easily than non-charitable bodies. There will be a small start-up cost for setting up your own charity. However, you increase your potential to access funding and are able to enter into contracts in the charity's name, e.g. to employ staff or own property.
- **Representation** - Registered charities can formally represent and help to meet the needs of the community.
- **Accountability** - Registered charities are regulated by the Charity Commission and have a clear governance structure.
- **Tax incentives** - You do not usually have to pay income or corporation tax as a charity and there are special VAT treatments in some circumstances. A charity is also exempt from capital gains tax, stamp duty, and any gifts received are free of inheritance tax. There may also be reduced costs for Registered Charities in terms of accounts and auditing.

Most Trustees are volunteers, and receive no payment (out of pocket expenses).

When to register

The Charity Commission regulates and administers all registered charities in the UK. A voluntary and community group (or organisation) can become a registered charity through the Charity Commission if:

Salford CVS, The Old Town Hall, 5 Irwell Place, M30 0FN

Tel: 0161 787 7795

Email: office@salfordcvs.co.uk | **Web:** www.salfordcvs.co.uk

Company Limited by Guarantee 1948293 | Registered Charity No 519361

Factsheet

This factsheet is for guidance only

It is using an appropriate governing document

- Its yearly income is more than £5,000
- Its purposes or aims are exclusively charitable and for the benefit of the public

The Charities Act 2006 sets out the following definitions of a charitable purpose (taken from the Charity Commission website):

1. The prevention or relief of poverty
2. The advancement of education
3. The advancement of religion
4. The advancement of health or the saving of lives
5. The advancement of citizenship or community development
6. The advancement of the arts, culture, heritage or science
7. The advancement of amateur sport
8. The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
9. The advancement of environmental protection or improvement
10. The relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
11. The advancement of animal welfare
12. The promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services
13. Any other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose

How to register

Before you register, you must check that the aims of your charity fall under the descriptions of a **charitable purpose** as outlined in the Charities Act 2006 and that it is for the benefit of the public. In order to register to become a charity you then need:

- To complete the Charity Commission's **online application form**
- **A governing document** - The Charity Commission have their own model constitutions that can be adapted to your organisation, we recommend model GD3.
- **A signed Trustee declaration (form CC5c)** - available from the Charity Commission. You will need at least three unpaid trustees. You will also need to choose your initial members, directors and secretary (if any) and a registered office
- An **annual income of £5,000 or more** - If you have an income of below £5,000 and would like to register, you will need to have evidence of your

Key Words

Charity Commission - the regulatory body for registered charities

Board of Trustees - the governing body of a registered charity

Board of Directors - the governing body of a company

Companies House - the regulatory body for companies

Company Limited by Guarantee - A private, incorporated company that reinvests any profits back into the company

Incorporated - A separate organisation or business with its own legal identity

Memorandum of Association - this is your Memorandum and your Articles of Association. Previously seen as two separate documents, but now combined as one

Unincorporated - A group of people coming together under a shared interest or activity, including a community group, local club, or association

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income and a letter or email from the Charity Commission to say that they have agreed to process your application form

- **A bank account** - to manage your finances

Once registered, you will have to abide by the Charities Act and must comply with Charity Commission regulations. The main regulations include:

- The completion of financial returns
- Approval by the Charity Commission of any changes to your governing document (including any amendments to your Objects)
- Informing the Charity Commission of any changes to your trustees

Please note, it is also possible to undertake other legal forms, see the '**Legal Structures**' factsheet for more information.

Risk and incorporated organisations

If your group (or organisation) is thinking of taking on a lease (owning a building), employing members of paid staff, agreeing any contracts in your organisation's name, or managing finances of over £5,000, you must also consider becoming an 'incorporated' organisation as well as a registered charity. See the '**Legal Structures**' factsheet for more information on specific forms of incorporation.

An incorporated organisation has an existence of its own (a separate legal identity) from individual members or trustees. The main benefit of 'incorporation' is to limit the amount of risk. With an unincorporated group (or organisation) individual members (such as trustees) are personally responsible for any debt, financial obligations, or problems that your charity incurs. However, trustees may take out trustee liability insurance to limit their liability.

In an 'Incorporated' organisation, individuals have limited liability, so if the organisation becomes insolvent or is under financial risk, members are not personally liable for any debt. On such an occasion trustees are liable to pay only a fixed amount (from £1 to £5), unless there is a breach of trust or if trustees have made a poor investment without obtaining financial advice.

In the circumstance of either a registered charity or an incorporated company being dissolved (wound up), any remaining assets should be transferred to an organisation with similar objectives after the payment of any debts. (Charities must transfer their assets to other charities). There is usually a rule forbidding the distribution of assets or property, directly or indirectly, among members.

INO1 is the application form which registers the company

Sources:

The Russel-Cooke Voluntary Sector Handbook 2009 (Third edition)

The charity commission website (www.charity-commission.gov.uk)

Companies House website (www.companieshouse.gov.uk)

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