

Charity Registration

Information to help your community organisation understand whether it is or could be a charity, whether it should register with the Charity Commission, and how to do so.

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Please note this page is written and managed by the Resource Centre, an independent charity. For more information about the Charity Commission, please contact the Charity Commission directly¹.

What is a charity?

A charity is an organisation which:

- ♦ Has exclusively charitable purpose (as defined by law), and
- ♦ Exists for the public benefit (as defined by law).

It is often assumed that if an organisation is 'not-for-profit' (i.e. it reinvests its surplus income back into the organisation) it must be a charity. Although charities cannot be profit-making, this is not what defines a charity. Some not-for-profit organisations are not charities. See our sheet *Not-for-profit organisations* for more information.

It is the law which defines whether an organisation is a charity. If your group's aims are exclusively charitable, and it exists for public benefit, then it is a charity in the eyes of the law even if you have not yet thought of it as a charity. Registering with the Charity Commission does not make a group into a charity: registering simply turns an unregistered charity into a registered charity. (The exception to this is Charitable Incorporated Organisations (CIOs), which must register with the Charity Commission in order to formally exist. An existing organisation that wishes to become a CIO must set up a new CIO, and then close down the old organisation).

Charitable purpose

There are 13 broad categories of charitable purpose. A charity's objects, or aims, as set out in its constitution or other governing document, must fall within one of these categories:

- ♦ prevention or relief of poverty;
- ♦ advancement of education;
- ♦ advancement of religion (which includes religions which involve belief in more than one god, or do not involve belief in a god);
- ♦ advancement of health (including the prevention or relief of sickness, disease or human suffering) or the saving of lives;
- ♦ advancement of citizenship or community development (including rural or urban regeneration, and the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities);
- ♦ advancement of the arts, culture, heritage or science;
- ♦ advancement of amateur sport (sports or games which promote health by involving physical or mental skill or exertion);
- ♦ advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- ♦ advancement of environmental protection or improvement;
- ♦ relief of those in need by reason of youth, age, ill health, disability, financial hardship or other disadvantage (including relief given by the provision of accommodation or care);
- ♦ advancement of animal welfare;
- ♦ promotion of the efficiency of the armed forces of the Crown, or the efficiency of the police, fire, and rescue services or ambulance services;
- ♦ other purposes currently recognised as charitable under charity law or under s.1 of the Recreational Charities Act 1958, and any new purposes which are analogous (similar) to another charitable purpose

These 13 categories of charitable purpose were introduced on 1st April 2008. Charities registered before that date under one of the four broad heads (categories) of charity below continue to be charitable:

- ♦ The relief of hardship
- ♦ The advancement of education
- ♦ The advancement of religion
- ♦ Certain other purposes for the benefit of the community

Charitable Objects

Your organisations' objects are listed in your governing document. They describe the aims of your organisation. It is through your objects that you show your organisation has charitable purpose.

If you want your organisation to be a charity, the objects in your governing document must be charitable. If you want to register an existing organisation with the Charity Commission, you might need to change the objects in your constitution to make them charitable.

The Charity Commission provides examples of charitable objects¹ on its website which you may wish to use. If one of the examples describes the aims of your own charity, you can copy it into your constitution; if you copy it without alteration, the Charity Commission will accept that your group has charitable purpose.

You may also find it helpful to use the Charity Commission Register of Charities² to look at the objects of charities similar to your own.

Exclusively charitable objects

When you apply to register a charity, the Charity Commission will look carefully at your constitution or other governing document to determine whether the objects of your group are exclusively charitable. If your objects clauses allow your group to do something which the law does not recognise as charitable, your group will not be considered a charity, even if your main objects are charitable.

Campaigning and political activities

A charity is not allowed to have directly political objects, but it can engage in political activities if they help support its charitable objects.

The Charity Commission guidance states:

- ♦ "There may be situations where carrying out political activity is the best way for trustees to support the charity's purposes. A charity may choose to focus most, or all, of its resources on political activity for a period. The key issue for charity trustees is the need to ensure that this activity is not, and does not become, the reason for the charity's existence.
- ♦ "Charities can campaign for a change in the law, policy or decisions where such change would support the charity's purposes. Charities can also campaign to ensure that existing laws are observed."

A charity cannot support or promote a specific candidate, politician or political party, and must ensure it maintains its independence at all times.

Further details are available from the Charity Commission in Speaking out guidance on campaigning and political activity by charities (CC9)³.

¹ <https://www.gov.uk/government/publications/example-charitable-objects>

² <http://apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/registerhomepage.aspx>

³ <https://www.gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9>

Public benefit

A charity must be for the benefit of the community as a whole or a significant part of it. This is not simply a question of numbers and the Charity Commission will assess each organisation on its merits. In broad terms, the community may be a geographical area or a community of interest.

- ♦ A charity operating within a geographical area must demonstrate that it provides a benefit to the whole area.
- ♦ A community of interest may, for example, be disabled people, members of a minority ethnic group or people who have a particular illness. In this case, the charity must be open to anyone within that particular community of interest.

A charity cannot be set up to personally benefit its trustees or employees, though it may of course employ staff.

The Public Benefit Test

Charity Commission guidance sets out two key principles of public benefit:

There must be an identifiable benefit or benefits:

- ♦ It must be clear what the benefits are
- ♦ The benefits must be related to the aims
- ♦ Benefits must be balanced against any detriment or harm

Benefit must be to the public or section of the public:

- ♦ The beneficiaries must be appropriate to the aims
- ♦ Where the benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted either by the ability to pay any fees charged or by geographical or other restrictions
- ♦ People on low incomes must not be excluded from the opportunity to benefit
- ♦ Any private benefit must be incidental

Types of charity

There are several different types of organisation that can be charitable. Whichever structure an organisation has, it must have exclusively charitable purpose and pass the public benefit test in order to be considered a charity. There is much more information about all these structures in our page *Finding a legal structure to suit your group*.

Charitable unincorporated association

An unincorporated association is a membership organisation. It can be whatever its members want it to be, and carry out whatever activity you choose. It is the easiest, quickest and cheapest way for a group to set itself up. This structure is suitable for groups such as community associations, social clubs, film clubs, and arts groups. If your unincorporated association has charitable aims, this makes it charitable unincorporated association, which is a type of charity.

An unincorporated association does not have its own legal existence, so its trustees are liable for its debts and obligations.

Charitable trust

A charitable trust is run by a small group of people, known as trustees. Its purpose is usually to manage money or property for a charitable purpose. A charitable trust does not have its own legal existence, so its trustees are liable for its debts and obligations.

Charitable Incorporated Organisation (CIO)

A Charitable Incorporated Organisation (CIO) can be a membership organisation (like an unincorporated association) or be governed by a small group (like a trust). It has its own legal existence, which means it can enter into contracts and have debts and obligations in its own right. This provides some protection for trustees, because they are not individually liable in the same way they are with an unincorporated association or charitable trust. It is more complicated to set up than an unincorporated charity.

Charitable Company

A charitable company is a limited company with charitable aims. It has its own legal existence, which means it can enter into contracts and have debts and obligations in its own right. This provides some protection for trustees, because they are not individually liable in the same way they are with an unincorporated association or charitable trust.

Which charities need to register?

Every unincorporated charity and Charitable Company with a gross annual income of £5,000 or more must register with the Charity Commission. Once a charity reaches this threshold, it should register in the following financial year. Already registered charities below the £5,000 threshold will remain on the register.

All Charitable Incorporated Organisations (CIOs) have to register with the Charity Commission, regardless of their annual income. CIOs do not formally exist as charities until they are registered.

Although the majority of charities are required to register, there are no financial penalties for not being registered. You therefore have some room to ensure that you register at a time which best fits in with your group's development. It can take some time for a small charity to adopt a constitution which will satisfy the Charity Commission and develop a good book-keeping system.

NB. There are different regulations (with different income thresholds) covering Exempt Charities, such as churches and the Scouts, and Exempt Charities, such as provident societies.

Main advantages of being a registered charity

- ♦ It can be easier to obtain grants. Many funders give grants only to registered charities.
- ♦ Registration lets the public know that your group is a legitimate organisation and is being monitored by the Charity Commission.
- ♦ You are entitled to tax relief on several taxes and reduced business rates on your premises; and you may reclaim the tax on covenants and other donations by individuals, such as Gift Aid.
- ♦ An unincorporated charity below the £5,000 threshold may enjoy the benefits of charitable status without having to satisfy the reporting requirements of charities registered with the Charity Commission. It can apply to the Revenue and Customs (HMRC) for tax relief. Like a registered charity number, an HMRC charity number should be accepted by banks and grant funders as evidence of charitable status. Information on how to register with the HMRC is available on their website⁴.

Obligations of a registered charity

- ♦ Any charity (whether registered or not) must keep to its charitable purposes at all times and comply with charity law.
- ♦ A registered charity must follow Charity Commission rules concerning its annual report and accounts. We look at these rules in our information sheet on *Charity Reporting and Accounts*.
- ♦ A registered charity has the same general obligations of any community or voluntary organisation:
 - to follow the aims and rules of its constitution;
 - to be well run and managed;
 - and to act within the law.

How to register

To register a charity you will need to complete the online registration process⁵ on the Charity Commission website. If you provide all the information and documents required, and answer all the questions clearly, the Charity Commission state that they will complete the process within 30 days.

Before completing the online form you should collect together all the documents and information that you will need. This includes:

⁴ <http://www.hmrc.gov.uk/charities/tax/recognition.htm>

⁵ <https://www.gov.uk/guidance/how-to-register-your-charity-cc21b>

A copy of your constitution or other governing document

The Charity Commission produces a model governing document for each form of charity organisation, which you can fill in with details of your own charity. If it suits you to combine a model governing document with one of the example objects referred to earlier, it will speed up and simplify the application process.

If your group has its own governing document, it is essential that it takes account of all the points in the relevant model even if it does not follow the exact format or wording. For more information see the Charity Commission guidance CC22b "How to write your charity's governing document"⁶.

Trustee Declaration form

This will be signed by all of your committee members declaring that they are willing to act as charity trustees. The governing document of your group will define who your trustees are. They are responsible for the running of your organisation and it is important that they are willing to take an active part in it.

Financial information

All Charitable Incorporated Organisations must register with the Charity Commission when setting up, so they will have no accounts information at the time of registration. In this case you will need to provide details of how your CIO will be funded in order to achieve its aims.

Other charities will need to show that their annual income is at least £5000. This will probably be your last set of annual accounts, and your bank account details.

Other information

You will need to provide information to explain:

- ♦ how your organisation's purposes are for public benefit, and how you will carry them out to ensure that you achieve your purposes.
- ♦ what your organisation does, who it helps and how it operates
- ♦ where your organisation operates: In England and/or Wales; in Scotland or Northern Ireland; or abroad.
- ♦ How you can be contacted: postal address, phone, email and website (if you have one)
- ♦ Any benefits that Trustees will receive
- ♦ Action you have taken to ensure you meet safeguarding requirements if you work with children or vulnerable adults

The Charity Commission guidance Registering as a charity (CC21)⁷ provides details on all the preparation you will need to do before registering.

⁶ <https://www.gov.uk/guidance/how-to-write-your-charitys-governing-document>

⁷ <https://www.gov.uk/how-to-set-up-a-charity-cc21a>

Useful contacts

i Charity Commission

Charity Commission

PO Box 211

BOOTLE

L20 7YX

<https://www.gov.uk/government/organisations/charity-commission>