

Charity Registration

Is your group a charity, and should it register?

This information sheet aims to give some guidance as to whether your group should register as a charity. It is intended mainly for smaller community groups although the information is equally relevant to larger organisations in the voluntary sector.

If you are setting up a new group with the aim of registering as a charity, this sheet should help you to begin the process.

This sheet outlines the current situation. The Charities Act 2006 made considerable changes to charity law. Many have already been introduced but other changes are still in the pipeline.

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What is a charity?

- H A charity's stated objects, or aims, must fall within one of the categories of charitable purpose described below.
- H An organisation is a charity if it is established for exclusively charitable purposes, *ie* if its objects are exclusively charitable.
- H A charity must demonstrate that it exists for the public benefit as well as for a charitable purpose.
- H It is the law which defines a charity. Your group may well be charitable in the eyes of the law even though you have not yet thought of it as a charity.
- H Registering with the Charity Commission does not make a group into a charity; registering simply turns an existing charity into a registered charity.
- H It is often assumed that if an organisation is 'not-for-profit' it must necessarily be a charity. This is not the case. Clearly a charity must be 'not-for-profit', reinvesting any surplus in the organisation. However although a charity does not distribute profits to, say, its members or shareholders, that is not what defines a charity. To be a charity, an organisation must have a charitable purpose as defined by the law and exist for the public benefit.

A charity may make a surplus through charges for its services or through trading activities, but there may be pitfalls. If your charity plans to do this, it is advisable to investigate beforehand to make sure that you do not go outside charity law or incur taxes. When you register, the Commission will ask for details of your activities

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:

1. prevention or relief of poverty;
2. advancement of education;
3. advancement of religion (which includes religions which involve belief in more than one god, or do not involve belief in a god);
4. advancement of health (including the prevention or relief of sickness, disease or human suffering) or the saving of lives;
5. 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);
6. advancement of the arts, culture, heritage or science;

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7. advancement of amateur sport (sports or games which promote health by involving physical or mental skill or exertion);
8. advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
9. advancement of environmental protection or improvement;
10. 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);
11. advancement of animal welfare;
12. promotion of the efficiency of the armed forces of the Crown, or the efficiency of the police, fire, and rescue services or ambulance services;
13. 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

NB. The 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:

1. *The relief of hardship*
2. *The advancement of education*
3. *The advancement of religion*
4. *Certain other purposes for the benefit of the community*

Charitable Objects

The Charity Commission provides examples of charitable objects on its website which you may wish to use. With each example, there is an example of the type of activity which such a charity would carry out and often reference to a Commission publication. If one of the examples describes the purposes 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 purposes. You may also find it helpful to use the Commission website to look at the objects of charities similar to your own. Please see [appendix](#) for details.

A charity is not allowed to have directly political objects. Though campaigning work is therefore restricted, public education is permitted. So there is plenty of scope for a charity to run a strong campaign to inform the public so long as it provides balance and not overt

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propaganda. A charity can also carry out political activity such as lobbying MPs in order to provide information and comment based on the charity's experience. If your charity plans to campaign, it is advisable to look into this carefully to ensure that you do not go outside charity law. When you register, the Commission will ask for details of your activities.

Exclusively charitable objects

The Charity Commission will look carefully at the Objects clauses in your constitution or other governing document to determine whether the purposes 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.

Public benefit

- H 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.
- H A charity operating within a geographical area must demonstrate that it provides a benefit to the whole area. If a community association defines its area of interest as a particular electoral ward then it must be open to all who live within the ward.
- H A community of interest may, for example, be disabled people or members of an ethnic group or people suffering from a particular illness. In this case, the charity must be open to anyone within that particular community of interest.
- H A charity can not be set up to benefit personally its trustees or employees, though it may of course employ staff. (Trustees are the members of the committee or other body which runs a charity.)

The Public Benefit test

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

There must be an identifiable benefit or benefits

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

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Benefit must be to the public or section of the public

- a. The beneficiaries must be appropriate to the aims
- b. 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.
- c. People on low incomes must not be excluded from the opportunity to benefit.
- d. Any private benefit must be incidental

Which charities need to register?

- H Every charity with a gross annual income of £5,000 or more is required by law to register with the Charity Commission. Once a charity reaches this threshold, it should register in the following financial year.
- H A charity below the £5,000 threshold may register voluntarily. However voluntary registration will not be available before 2009, unless the charity can convince the Commission that it has a particular need to register. Already registered charities below the £5,000 threshold will remain on the register.
- H An unregistered charity is still legally a charity and must abide by charity law.

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 Excepted Charities, such as churches and the Scouts, and Exempt Charities, such as provident societies.

Main advantages of being a registered charity

- H It is easier to obtain grants. More and more funders give grants only to registered charities. However, smaller funding bodies usually give grants to small community groups even if they are not registered.
- H You will almost certainly need to be registered from 2009 if you want to make a collection in a public place or collect door to door (whether cash or goods). You will require a public collections certificate issued by the Charity Commission and permission from

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the city council.

- H 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.
- H Registration lets the public know that your group is a legitimate organisation and is being monitored by the Charity Commission.

Obligations of a registered charity

- H Any charity (whether registered or not) must keep to its charitable purposes at all times and comply with charity law.
- H A registered charity must follow Charity Commission requirements relating to annual reports and accounts;
- H A registered charity has the same general obligations of any community or voluntary organisation
 - H to follow the terms of its constitution or other governing document
 - H to be well run and managed
 - H to act within the law

How to register

The Charity Commission provides a clear Registration Application Pack containing an application form with notes and a trustees' declaration form. You may phone the Commission to obtain a copy or download one from their website.

You will need to send the Charity Commission

- H The completed application form
- H 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.

- H The Trustee Declaration form 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 are your trustees; they are responsible for the running of your organisation and it is important that they are willing to take an active part in it.

We look at accounting requirements in our information sheet on Charity Reports and Accounts - available in print or on our website.

For more details please see our information sheets on Legal Structures and Constitutions - available in print or on our website.

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- H A copy of your accounts, or other financial information if you are a new group.
- H Background information, such as publicity material or newspaper articles, which give a picture of your group's activities.

If the Charity Commission accepts your application, your group should be registered within 3 weeks. You may be asked to provide further information, in which case the process will take quite a lot longer. If the Commission turns you down, they will explain in writing why your group is not considered charitable and you will have the right to ask for a review of the decision.

Further information

We have been able to give only a basic outline of the legal framework and of the issues which you need to consider when deciding if your group is a charity. If, having read this sheet, you think that your group is a charity then you may be required by law to register it.

- H The Resource Centre has more detailed information on charity registration and on the general running of community and voluntary organisations.
- H Clickdocs provide information on charity law and packages of legal documents for establishing different forms of organisations, including limited companies with charitable purposes.
www.clickdocs.co.uk
- H The Charity Commission provides booklets and guidance notes on every area of charity law, which are available in print or on its website.

*Charity Commission Direct
PO Box 1227
Liverpool
L69 3UG
Tel: 0845 3000 218
Minicom: 0845 3000 219
www.charitycommission.gov.uk*

*The Resource Centre
reference library has a section
devoted to Charitable status.
The booklist is available in
print and on our website*

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Appendix:

Objects

The Charity Commission's website provides examples of charitable objects at 'About Charities > Registering a Charity' under the following headings:

- H Advancement of Education
- H Advancement of Religion
- H Advice and counselling
- H Animal Charities
- H Carers
- H Community Amateur Sports Clubs
- H Community Capacity Building
- H Community Centre
- H Community Transport
- H Conciliation And Mediation
- H Conservation of the environment
- H Disasters
- H Elderly People
- H Equality and Diversity
- H Family Planning
- H Museum and/or Art Gallery
(the establishment and maintenance of)
- H Promotion of the Law, Police and Crime Prevention
- H Racial Harmony
- H Recreational Charities Act 1958
- H Recycling
- H Refugees / Those Seeking Asylum
- H Relief of Financial Hardship
- H Relief of Sickness
- H Relief of unemployment
- H Urban or Rural Regeneration
- H Village Halls
- H Young People

To look at the objects of charities similar to your own, go to the 'Register of Charities' on the Charity Commission website where you can search for a list of charities by object and then look at the details of individual charities.