

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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What is a charity?

A charity is an organisation which:

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

It is often assumed that if an organisation is 'not-for-profit' (i.e. it reinvests any money it makes 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 information sheet *Legal structures for community groups and not-for-profit organisations* for more information on organisational structures.

The law defines whether or not 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.

Public benefit

A charity must exist for the benefit of the public as a whole or to a sufficient section of the public. What is considered “sufficient” varies depending on the purpose of the charity. A charity cannot be for *private* benefit (i.e. only for the benefit of its own members, trustees or employees.)

The specific benefits the charity provides must be clear and possible to evidence. They must be balanced against any harms or detriments.

For more information about public benefit, see *Public benefit rules for charities* on the Charity Commission website¹.

Charitable purposes

The Charities Act 2011 describes 13 broad areas of activity which may be charitable. These are called charitable purposes. A charity’s aims, or objects, 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 charitable purposes. This includes any charitable purposes that are not listed above, but which have been established in law. For example: the provision of facilities for recreation; the rehabilitation of offenders and crime prevention; the promotion of social inclusion; the promotion of ethical standards of conduct.

¹ www.gov.uk/guidance/public-benefit-rules-for-charities#about-public-benefit

The full list is extensive and is added to regularly².

Information on how to write your group's objects (aims) to show your organisation has charitable purposes is on page 6.

Legal structures for charities

In order to exist, organisations must adopt a legal structure. "Charity" is not a legal structure in and of itself – there are several different legal structures that can be charitable. Some of these are listed below.

Whichever structure an organisation has, it must have exclusively charitable purposes and pass the public benefit test in order to be considered a charity.

There is more information about all these legal structures in our information sheet *Legal structures for community groups and not-for-profit organisations*.

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 – you just need to write and adopt a constitution. If your unincorporated association has charitable aims and exists for the public benefit, it is a charity, and must register with the Charity Commission if its income is over £5,000 per year. An unincorporated association cannot enter into contracts or own property in its own right – its committee members are personally responsible for its liabilities.

Charitable trust

A charitable trust is run by a small group of people. It does not have a wider membership – trustees are appointed rather than elected. It must have charitable aims and be for the public benefit, and must register with the Charity Commission if its income is over £5,000 per year. It cannot enter into contracts or own property in its own right – its trustees are personally responsible for its liabilities.

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, and trustees are not personally responsible for its liabilities. A CIO must register with the Charity Commission as soon as it is set up – it does not officially exist until it is registered.

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. It must be registered with Companies House (in order to become a

² www.gov.uk/government/publications/charitable-purposes/charitable-purposes#any-other-charitable-purposes

company), and then must also register with the Charity Commission if its income is over £5,000.

Community Benefit Society

A Community Benefit Society is owned by its members, who hold shares and control the organisation on a one-member one-vote basis. It must benefit the wider community (not just its members). It is one of the few types of charity that is not regulated by the Charity Commission – if it has charitable aims it should register with the Financial Conduct Authority³.

Which charities must register with the Charity Commission?

Charitable Incorporated Organisations (CIOs)

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

Unincorporated charities, charitable trusts and charitable companies

In England and Wales, every charitable unincorporated association, charitable trust 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. There are no financial penalties for not being registered so you will have time to do everything necessary to prepare your charity for registration without having to work to a strict deadline. 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. (See our information sheets *The Treasurer's Role* and *Your group's money* for more help with this).

If your charity's income is below £5,000, you cannot register with the Charity Commission. However, an unregistered unincorporated charity below the £5,000 threshold can benefit from tax relief by registering with HM Revenue and Customs (HMRC)⁴.

Once you are registered as a charity, if your income falls below £5,000, you will remain on the register.

Other charities

A few types of charity are regulated by different organisations instead of the Charity Commission. This includes Community Benefit Societies, who should register with

³ www.fca.org.uk

⁴ www.gov.uk/charities-and-tax/get-recognition

the Financial Conduct Authority instead. Churches and Scout groups are also regulated separately⁵.

Advantages of being a registered charity

- ♦ It can be easier to obtain grants. Some funders only give grants 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 donations from individuals through Gift Aid.

Obligations of a registered charity

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

How to register with the Charity Commission

To register your organisation with the Charity Commission you must complete an online application form⁶. If you provide all the information and documents required, and answer all the questions clearly, the Charity Commission state that they will come back to you within 45 days. Once you start your application you will have 3 months to complete and submit it.

When you apply, the Charity Commission will look carefully at your constitution or other governing document, and your answers to the questions on the form. The aims, or “objects”, of your group must show you only have charitable purposes, and you must describe how your activities help you achieve these aims. Your governing

⁵ www.gov.uk/government/publications/excepted-charities

⁶ www.gov.uk/guidance/how-to-register-your-charity-cc21b

document and the answers in your application form need to be consistent, so it is a good idea to work on both at the same time.

Charitable objects

Your organisation's objects are listed in its governing document (e.g. its constitution). They describe the aims of your organisation. It is through your objects that you show your organisation has charitable purposes.

If you want your organisation to be a charity, the objects in your governing document must be exclusively charitable. If you want to register an existing organisation with the Charity Commission, you might need to change the objects in your governing document or choose to adopt a new governing document based on a Charity Commission model.

If any of your objects 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.

The Charity Commission provides examples of charitable objects on its website that you may wish to use⁷. If one of the examples describes the aims of your charity, you can copy it straight into your governing document. 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 Charities⁸ to look at the objects of charities similar to your own which have registered in recent years.

When writing your objects you will need to clearly state:

- **what** outcomes your charity is set up to achieve
- **how** it will achieve these outcomes
- **who** will benefit from these outcomes
- **where** the benefits extend to

Example 1. A global medical relief organisation's objects might say:

"For the public benefit, the relief and assistance of people in need [what] in any part of the world [where] who are the victims of war or natural disaster or catastrophe [who] by supplying them with medical aid [how]."

Example 2. A local support group for migrants might have objects saying:

"To promote social inclusion for the public benefit [what] by working with people in Sussex [where] who are socially excluded on the grounds of their ethnic origin, religion, belief or creed (in particular, members of the xxx community) [who] to relieve the needs of such people and assist them to integrate into society, in particular by providing: (a) education and training in the English language and in other skills and subjects; (b) a local network group that encourages and enables members of the xxx community to participate more effectively with the wider

⁷ www.gov.uk/government/publications/example-charitable-objects

⁸ <https://register-of-charities.charitycommission.gov.uk/>

community; (c) social and recreational facilities and events involving the local community. [how]

You can adapt the Charity Commission's example objects, or those used by other charities which have registered in recent years, to reflect the aims and activities of your own charity. You need to ensure you use clear and precise language.

Detailed advice on how to write your objects is available on the Charity Commission website⁹.

Political objects 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. For example, charities can campaign for changes to the law, or for existing laws to be upheld, if this supports their charitable objects.

Political activities must not become the sole purpose of a charity's existence.

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 *Campaigning and political activity guidance for charities (CC9)*¹⁰.

Describing your activities and benefits

When you apply to register your charity, you will need to explain what your charity does and how your activities fulfil your charitable objects. It is worth considering how you will complete your application before finalising your objects and governing document.

Ensure you have read and understood any Charity Commission guidance on the purposes you have chosen and on public benefit.

The three main questions in the Charity Commission application form are below. You may find it useful to draft your responses to these questions at the same time you are thinking through your objects and governing document:

- *Explain how the organisation carries out its purposes* i.e. explain what your organisation does and how your activities are connected to and support your objects.
- *Explain what the benefits of the organisation's purposes are* i.e. There will be many ways in which people benefit from the objects or purposes of your organisation. In the example object given on page 6 (example 2), this could include:
 - Providing opportunities to feel part of a community for people who are socially excluded on the grounds of their ethnic origin, religion, belief or creed.
 - Improving the self-confidence and sense of belonging of young people who are at risk of being socially excluded on the grounds of their

⁹ www.gov.uk/guidance/how-to-write-charitable-purposes

¹⁰ www.gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9

- ethnic origin, religion, belief or creed, through the provision of language, cultural education and social activities.
- Promoting mental wellbeing for people who are at risk of being socially excluded on the grounds of ill health, in addition to their ethnic origin, religion, belief or creed, through the provision of social activities.
- *Explain who can benefit and why the organisation's purposes aim to benefit them.* Your charity might be set up for everybody to be able to benefit, but you may also be set up to benefit a specific group of people. It is legal to do this if the group of people you aim to benefit share a protected characteristic under the Equalities Act 2010. You will need to show that you have read the Charity Commission guidance on this and understand the decision you have made.¹¹

You may have to answer additional questions about the charitable purposes you have used to describe your objects. For example, if you use the purpose 'Advancement of Education' you will need to answer additional questions about what subjects you advance education in and what the charity does to support or advance education.

Other documents and information

You will need to submit the following documents and information with your application form to the Charity Commission:

A copy of your governing document

The Charity Commission produces model governing documents for different legal structures¹², which you can fill in with details of your own charity. These are called a Constitution, Memorandum of Association, Article of Association, or Trust Deed, depending on what legal structure you choose.

Using a model governing document and wording from the Charity Commission's example objects 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 *How to write your charity's governing document (CC22b)*¹³.

If you are writing a new governing document, or amending your old one, you will need to call a meeting to vote and agree it. If you are a membership organisation you will need to call a general meeting. Usually you will need to give all your members 21 days' notice and provide them with a copy of the governing document in advance.

¹¹ www.gov.uk/government/publications/equality-act-guidance-for-charities/equality-act-guidance-for-charities#about-the-charities-exception

¹² www.gov.uk/government/publications/setting-up-a-charity-model-governing-documents

¹³ www.gov.uk/guidance/how-to-write-your-charitys-governing-document

Trustee Declaration

All your committee members must sign a declaration to say they are eligible to act as charity trustees¹⁴.

People are not allowed to act as Charity Trustees if they have: unspent criminal convictions relating to fraud, terrorism or sexual offences; an Individual Voluntary Arrangement (IVA), debt relief order and/or a bankruptcy order; been disqualified as a company director or charity trustee in the past. A full list of disqualifications¹⁵ is available on the Charity Commission website.

Financial information

All Charitable Incorporated Organisations (CIOs) must register with the Charity Commission when setting up, so they will have no accounts information at the time of registration. They must provide information about how the charity will be funded.

Other charities must show that their annual income is at least £5,000. You should provide your organisation's most recent set of accounts, and bank details.

Other information requested by the Charity Commission

You will also need to provide the following information:

- ♦ where your organisation operates
- ♦ contact details
- ♦ full details of all your trustees
- ♦ any benefits the 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)* provides details on all the preparation you will need to do before registering¹⁶.

Further information from the Resource Centre

Please note this sheet is by the Resource Centre, an independent charity. For more information about the Charity Commission, please refer to the Charity Commission website¹⁷. You may also find the following Resource Centre information sheets useful:

- ♦ *Getting a group started*
- ♦ *Legal structures for community groups and not-for-profit organisations*
- ♦ *Charity reporting and accounts*
- ♦ *Responsibilities of registered charities*
- ♦ *Your group's money*

¹⁴ www.gov.uk/government/publications/confirmation-of-charity-trustee-eligibility

¹⁵ http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731084/010818_Disqualification_Reasons_Table_v2.pdf

¹⁶ www.gov.uk/how-to-set-up-a-charity-cc21a

¹⁷ www.gov.uk/government/organisations/charity-commission