



# I WANT TO RUN A CHARITY, WHERE DO I START?

## A GUIDE TO ESTABLISHING A CHARITY IN ENGLAND AND WALES

OCTOBER 2012



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# FOREWORD

The Thomson Reuters Foundation launched TrustLaw in July 2010. Our goal: to spread the practice of pro bono worldwide and empower people with trusted information. At the centre of TrustLaw is TrustLaw Connect, a global marketplace connecting NGOs and social enterprises with lawyers willing to work at no cost.

From day one, it has been our intention to support all kinds of socially-motivated organisations with practical legal advice. While we assist organisations with specific individual legal needs, we also aim to share information that can be of use to a wider audience. That is the aim of this guide – to share the key information about setting up and running a charity in England and Wales.

By providing an overview of the legal requirements of running a charity in England and Wales, we aim to make the process of registering as simple as possible for budding philanthropists and social activists. This guide will give you a good overview of the various decisions you will need to make in order to successfully register, shows the different stages of the process and also highlights the various ongoing requirements of registered charities in England and Wales.

This is one of two reports we have developed, together with international law firm Morrison & Foerster, to assist innovators and philanthropists in England and Wales in turning their ideas for a social organisation into reality.

For those that would like to consider setting up as a social enterprise rather than a traditional charity, we refer you to “Which Legal Structure is Right for My Social Enterprise? A Guide to Establishing a Social Enterprise in England & Wales”, which has also been produced by Morrison & Foerster to complement this guide.

Though this guide is comprehensive, and great thanks go to Morrison & Foerster for their hard work in ensuring it is, you may still need a lawyer to complete the actual registering, structuring or restructuring of your organisation, but we hope this guide will help you navigate the process of registering as a charity in England and Wales.

A handwritten signature in blue ink that reads "M. Villa". The signature is fluid and cursive, with a horizontal line underneath the name.

**MONIQUE VILLA**  
CEO, Thomson Reuters Foundation

I WANT TO RUN A CHARITY, WHERE DO I START?  
A GUIDE TO ESTABLISHING A CHARITY IN ENGLAND AND WALES

# INTRODUCTION

If you are contemplating joining the over 160,000 registered charities operating in England and Wales, then this guide aims to assist you by providing clear and practical advice on every step of applying to have your organisation listed on the Register of Charities. It also sets out the characteristics of registered charities and the advantages and limitations of being a registered charity.

Registered charities come in all shapes and sizes, from giant house-hold names acting internationally to small groups serving the needs of the local community. They have annual incomes ranging from £5,000 to many millions and could have been set up to address a social problem that has existed for decades, such as a housing charity in Sheffield, or in response to a natural disaster that occurred last week. Regardless of how different they may appear however, there are some fundamentals that all registered charities have in common. For example, they all operate exclusively for a charitable purpose, provide a benefit to the public, will benefit from a number of tax exemptions and reliefs, are subject to the restrictions imposed by charity law and come under the regulatory ambit of the Charity Commission of England and Wales (the “Charity Commission”).



## THE CHARITY COMMISSION

The Charity Commission regulates charities and is responsible for maintaining the Register of Charities, the national database providing details of all registered charities operating in England and Wales. The Charity Commission ensures that all registered charities are satisfying their legal requirements, and provides guidance and support to assist charities in their operations, obligations and reporting requirements. The Charity Commission also investigates and addresses all complaints from members of the public made against a registered charity, and attempts to maintain public confidence and trust in the charitable sector as a whole. Finally, the Charity Commission provides a database of information where the public can find up-to-date information on each charity, including their most recent filings as required to be published under charity law.

## SUMMARY OF THIS GUIDE

This guide addresses some of the key considerations and issues that an organisation will face when registering as a charity in England and Wales, including:

- Advantages and disadvantages of becoming a registered charity;
- Eligibility requirements for registration;
- Responsibilities of a registered charity, including filing requirements;
- Operation as a registered charity;

- International issues that could arise with non-domestic charities or non-domestic operations of a charity registered in England and Wales; and
- Practical steps to applying to be entered on the Register of Charities.

This guide includes information that can be found on the website of the Charity Commission at **[www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)** and from the website of HM Revenue & Customs (“HMRC”) at **[www.hmrc.gov.uk](http://www.hmrc.gov.uk)**. For further information and assistance on registering as a charity, please consult the Charity Commission’s website, contact the Charity Commission on **0845 300 0218** (08:00 to 18:00 Monday to Friday) or speak to your legal advisor.



# EXECUTIVE SUMMARY

## KEY INFORMATION ON REGISTERING AS A CHARITY IN ENGLAND AND WALES

### (a) Benefits

#### REGISTERED CHARITIES:

- Benefit from exemptions from income or corporation tax, capital gains tax or stamp duty and get special VAT treatment
- Can raise funds from the public and local organisations more easily than other non-registered bodies
- Can receive free advice, support and information from the Charity Commission

### (b) Restrictions

#### REGISTERED CHARITIES:

- Must have exclusively charitable aims at all times
- Must show an identifiable benefit made to the public or section of the public
- Can only engage in political activity which supports their charitable purpose and must remain independent from any political party or politician
- Cannot engage in trading which put their assets at risk
- Are limited in the financial benefits they can provide to their trustees, which must always be in the charity's best interests
- Must meet all necessary reporting requirements

### (c) Fundraising

- Fundraising may be the only form of income available to charities
- Fundraising is subject to self regulation by the industry, rather than by the Charity Commission
- Charities should follow guidelines in "Codes of Fundraising Practice" developed by the Institution of Fundraising
- Fundraising accounting and reporting provisions are subject to specific laws
- Charities can get VAT exemptions, zero-rate exemptions and other tax exemptions on fundraising activities

- Conditional donations must be compatible with charitable purposes and aims

#### **(d) Registration requirements**

##### **FOUR BASIC ELIGIBILITY REQUIREMENTS:**

- Set up under the laws of England and Wales
- Set up exclusively for 'charitable purposes'
- Aims are carried out for the benefit of the public
- Annual income of at least £5,000

#### **(e) Trustees**

- All charities require a body of trustees
- Individuals should not financially benefit from acting as a trustee
- There are restrictions on who can be a trustee and principles that they must follow, e.g. Trustees have a duty to act in the best interests of the charity and must exercise a duty of care
- Trustees should be appointed based on experiences and skill, not status in the community
- Trustees are responsible for ensuring that any fundraising activities fit in with the charity's charitable aims

#### **(f) Overseas operations**

- A charity may be required to register in a foreign country where it operates
- A charity's use of funds overseas must fall within charitable purposes
- If a charity operates overseas, additional financial controls may be required to prevent unnecessary risk
- A charity must monitor and report on foreign operations

# SHOULD I FORM A REGISTERED CHARITY?

Establishing and running a charity requires a lot of time, effort and dedication, so this guide is designed to give you all the necessary information to make an informed decision about whether registering a charity is the best thing to do for your situation.

There are many positive reasons why someone might want to set up a new charity, but with such large numbers of existing registered charities working on many different issues, together with increasing competition for funding, this may not always be the best option.

Below we set out some examples of situations where there may be a desire to set up a charity, and consider whether a registered charity is advisable in each case.

## 1. COMMEMORATING SOMEONE BY SETTING UP A CHARITY IN THEIR NAME

If the organisation complies with the eligibility requirements and registration guidelines then this could be a good reason to set up a new charity. However the Charity Commission recommends that you consider exploring the possibility of setting up a separate, named fund in a pre-existing charity, which may provide efficiency savings.

## 2. WANTING TO RECEIVE TAX EXEMPTIONS OR APPLY FOR LOTTERY FUNDING

Organisations do not have to be registered as charities to achieve beneficial tax status or apply for funding. Some charities are not eligible to apply for registration and HMRC have a separate method of determining charitable status. Equally different lottery grants have their own eligibility requirements that often do not depend on registration.

## 3. SETTING UP AN ORGANISATION IN RESPONSE TO A NATIONAL OR INTERNATIONAL DISASTER

It is important to consider if registering a new charity is the best way to support a disaster appeal. It may be more advisable for you to engage with a pre-existing local charity to provide resources to assist with their

work. Additionally, you must be careful when establishing disaster appeals that the organisation is for the public benefit, not just for a small, specified number of people, as such organisation would not fulfil the eligibility criteria for being a registered charity.

#### 4. HELPING SOMEONE WHO IS SUFFERING FROM AN ILLNESS

It is generally not charitable to set up an organisation for the benefit of a specific person. The beneficiaries would have to be defined much more broadly to fulfil the eligibility requirements. It may be a better option to consider working with a pre-existing charity that supports those who suffer from a particular illness.

#### 5. SETTING UP AN ORGANISATION TO PURSUE A POLITICAL AIM AND SEEK A CHANGE IN THE LAW

While charities are able to carry out political activities, they are not eligible to be registered if set up with political aims. Therefore, it would not be possible to register an organisation that is set up to seek a change in the law. Please see the paragraph on **'Campaigning Activities of the Organisation'** in the section entitled **'Limitations of being a registered charity'** below.

#### 6. ESTABLISHING A NOVEL CHARITY PURSUING CHARITABLE PURPOSES IN A UNIQUE WAY

If there is no other charity working towards a particular purpose and you are certain that you wish to comply fully with the constraints of operating a registered charity, then it may be a good idea to establish a new registered charity. Otherwise, another method such as setting up a non-charitable not-for-profit organisation, may be more appropriate to achieve your aims.

#### 7. WANTING TO SET UP AN ORGANISATION WHICH WILL RAISE MONEY FOR A CHARITABLE PURPOSE

Registered charities are able to raise money and engage in fundraising activities more easily than other organisations. If the proposed organisation can satisfy the requirements to be registered, is willing to comply fully with the constraints of charity law and it cannot fundraise under the umbrella of any sufficiently similar and suitable organisations, it may be a good idea to establish a new registered charity.



# REGISTERED CHARITIES

## CHOOSING TO SET UP AS A REGISTERED CHARITY

### 1 ADVANTAGES OF BEING A REGISTERED CHARITY

#### A REGISTERED CHARITY CAN:

- Benefit from exemptions from income or corporation tax, capital gains tax or stamp duty and get special VAT treatment
- Raise funds from the public and local organisations more easily than other non-registered bodies
- Receive free advice and support from the Charity Commission and access its database of free publications

#### (a) Tax Advantages

Registered charities do not normally have to pay income or corporation tax<sup>1</sup>, capital gains tax or stamp duty and can get special VAT treatment in some circumstances. Gifts to charities are free of inheritance tax and charities also pay no more than 20% of normal business rates on the buildings which they use and occupy to further their charitable aims.

In order for a charity to benefit from the tax reliefs available to charities, it must be recognised by HMRC as a charity for tax purposes. The charity will need to apply to HMRC for such recognition<sup>2</sup>. To be recognised, the charity will need to pass a four stage test:

1. It is established for charitable purposes only. What is regarded as 'charitable' by HMRC is different to the test employed by the Charity Commission. Therefore an organisation can be declined to be registered by the Charity Commission due to its purposes not being considered 'exclusively charitable' and still be recognised as having charitable status by HMRC.
2. The organisation must be subject to the jurisdiction of the High Court.
3. An organisation that is required to register with the relevant regulator (for example the Charity Commission in England and Wales) must do so.

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1 In the case of some types of income

2 Form ChA1 may be found at  
<http://search2.hmrc.gov.uk/kb5/hmrc/forms/view.page?formid=3951&record=tR6ypm32IVs>

4. The management of the organisation must meet the “fit and proper persons” test (described below).

On such recognition, charities can claim tax relief on income and gains, and on profits from some activities, as well as claiming tax back on income received on which tax has already been paid, for example on bank interest and Gift Aid donations.

#### FIT AND PROPER PERSONS TEST

The HMRC website also provides a helpsheet<sup>3</sup> and detailed guidance<sup>4</sup> for managers of charities who are involved with influencing the charitable purposes of a charity or the application of its funds to ensure they pass the “fit and proper persons” test. This guidance explains the need for charities to ensure that their managers are suitable to hold such posts and, in particular, that they haven't been involved in tax fraud or disqualified from being a charity trustee. The helpsheet also includes a model declaration managers can sign.

#### OTHER ADVANTAGES

- FUNDRAISING – Registered charities are often able to raise funds from the public, grant-making organisations and local government more easily than non-charitable bodies;
- PUBLIC CONFIDENCE – An organisation's status as a registered charity, easily identifiable by the charity number and inclusion in the Register of Charities, allows the charity to give the public the assurance that it is being monitored and advised by the Charity Commission because of its status as a registered charity;
- GUIDANCE AND SUPPORT – Registered charities can seek advice and get information from the Charity Commission, such as their range of free publications.

## 2 LIMITATIONS OF BEING A REGISTERED CHARITY

#### A REGISTERED CHARITY

- Must have exclusively charitable aims at all times
- Can only engage in political activity which supports its charitable purpose and must remain independent from any political party or politician

<sup>3</sup> This helpsheet can be found at  
<http://www.hmrc.gov.uk/charities/guidance-notes/chapter2/model-dec-ff-persons.pdf>

<sup>4</sup> The guidance can be found at  
<http://www.hmrc.gov.uk/charities/guidance-notes/chapter2/fp-persons-test.htm>

- Cannot engage in certain types of trading which put its assets at risk
- Is restricted in the financial benefits it can provide to its trustees, any of which must always be in the charity's best interests
- Must meet all necessary reporting requirements

Alongside the advantages for registered charities, there are restrictions that the Charity Commission places on registered charities, which may affect an organisation's decision on whether to register or not.

#### **(a) Aims of the organisation**

The aims and purpose of a registered charity must be exclusively charitable. More detail on charitable purposes is set out below in the section entitled 'Charitable Purposes', but any organisation that undertakes both charitable and non-charitable activities would have to cease any activities which are not considered charitable to become a registered charity.

#### **(b) Campaigning Activities of the Organisation<sup>5</sup>**

Charities are permitted to engage in campaigning and political activity, and the Charity Commission has confirmed that such activity can be the best way to support the charitable purpose. However, the political activity must be done to support a legitimate charitable aim or purpose. An organisation will not be able to register as a charity if the purpose of the organisation is political (i.e. it concerns the furthering of the interests of any political party, or securing or opposing a change in the law, policy or decisions either in this country or abroad), rather than charitable. Additionally, charities must stress their independence from any political party and are not allowed to give funding or support to a party, candidate or politician.

#### **(c) Trading by the charity<sup>6</sup>**

As discussed above, charities enjoy preferential tax advantages, to the extent that any profits that they make through trading may be exempt from taxation. However, along with the tax benefits come certain restrictions on the trading that the charity is able to undertake.

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<sup>5</sup> More guidance on campaigning and political activity can be found at <http://www.charity-commission.gov.uk/Publications/cc9.aspx>

<sup>6</sup> Detailed guidance on trading by charities can be found at <http://www.charity-commission.gov.uk/Library/guidance/cc35text.pdf>

There is no clear definition of trading but the Charity Commission uses the principle of a sale of goods or services, combined with the existence of a number of factors that could indicate trading. These factors include the frequency, nature and intention of the charity, the use of the goods to the charity, how the charity received the goods and the presence of a profit motive. Selling goods that have been donated, the sale of investments or assets used for charitable purposes, or the simple letting of land and building are all deemed not to be trading, while the selling of stock which has been bought by the Charity for the sole purpose of a forward sale at profit would fall under the scope of trading.

Charities are allowed to trade in pursuit of the charity's charitable objectives. However, the main restriction is that a charity is not able to place its assets at significant risk when trading, other than in pursuit of its charitable objectives. If a charity's assets were to be placed at significant risk through trading, such as to raise funds, the trading must be undertaken by a trading subsidiary of the charity. Any profits by a trading subsidiary are taxable; however, if these are paid to the charity, taxation principles can apply to reduce tax liabilities, for example the tax liabilities of the subsidiary may be reduced if it makes a donation to the parent charity as 'Gift Aid'. The use of a trading subsidiary can be disadvantageous to a charity, as it results in higher management and running costs, although the structural clarity that the separation creates may encourage charities to use a trading subsidiary even when one is not essential. Organisations should consult a tax advisor if they require further detail of the tax implications of becoming a registered charity.

#### **(d) Giving of Financial Benefits to Trustees <sup>7</sup>**

##### **RESTRICTIONS ON BENEFITS TO TRUSTEES**

- Charities cannot generally give financial benefit to trustees
- Charities can pay legitimate expenses, evidenced by a receipt or paid in advance if appropriate
- Trustees can only be paid if their services go beyond normal trustee duties and certain conditions are met
- Payment requires certain conditions to be met, such as clear payment terms specified in written contract, awarded by non-involved trustees in the best interests of the charity, and guidelines from Charity Commission must have been considered

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<sup>7</sup> <http://www.charity-commission.gov.uk/Publications/cc11.aspx>

Trustees are generally not allowed to receive financial benefit from the charity which they manage.<sup>8</sup> Financial benefits can include salaries, services or the awarding of contracts by the charity to a trustee's own business.

There are types of payments that can be made to trustees, however, either because they are generally permitted by law or are provided for in the governing document of the charity. These payments, while permitted, do contain limitations which restrict their scope.

#### PAYMENT OF EXPENSES

Trustees are permitted to have their legitimate expenses paid by the charity, even without separate authority from the governing document or the Commission. Expenses can include any reasonable cost that allows the trustees to carry out their duties. Examples of acceptable expense claims can include telephone and communication costs, travel costs, training costs and the costs of childcare for periods when attending to charity business.

Expenses that are excessive or which do not relate to legitimate trustee activities would not fall under the acceptable payment of expenses. These can include accommodation costs for partners of trustees, payment of private communication costs, medical insurance or excessive petrol repayments over the HMRC allowed level.

If considered appropriate by the charity, expenses can be paid in advance, but they should generally, unless impractical, be evidenced by receipts and proofs of payment. If any payment of expenses subsequently results in the payment exceeding the actual cost, then the trustee will be liable to repay the charity any excess.

#### PAYMENT FOR PROVISION OF SERVICES OR PAYMENT FOR ACTING AS A TRUSTEE

Charities are also limited in the payments that can be made to a trustee, or a person connected to a trustee, for the provision of a service. Trustees, or persons connected to a trustee, can only be paid in this regard when the services go over and above normal trustee duties. This must be decided in the charity's best interests by the other trustees who will not benefit from the payment, and who must total a majority of the trustees. An additional criterion is that no payment may be made where there is a prohibition on these payments in the governing document of the charity.

In order for payment to be validly made a number of conditions must be met:

- there must be a written contract between the charity and the trustee;

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<sup>8</sup> Unless specifically authorised in the governing document of a charity, authorised by the Charity Commission or permitted by a Court.

- the agreement must set out the exact or at least the maximum amount that is to be paid;
- the trustee must not take any part in the decision made by the trustee board regarding the agreement or the service provided;
- the payment must be reasonable in relation to the service provided;
- the trustees must be satisfied that the payment is in the best interests of the charity;
- in making the decision to award payment, the trustees must comply with their duty of care;
- the total number of trustees who are receiving the payment, or who are connected with a person receiving the payment, must be a minority of the trustees; and
- there cannot be a prohibition against this type of payment in the governing document of the charity.

In addition to these conditions, the trustees must be able to demonstrate that they made their decision to grant payment after having regard to the guidelines produced by the Charity Commission. They must be able to show that they are aware of the guidelines, have taken them into account, and that there is a good reason for any departure from the recommended practice.

The written agreement between the charity and the trustee must be a separate document, rather than just a recording in the charity's minutes, but need not follow any set format. It must consist of an accurate description of the service, state the trustee connected to the payment and a description of the payment. This description needs to include details of whether it is intended to be a one-off payment or a series of fixed-term payments and the maximum amount that can be paid during the course of the agreement. Further, as good practice, the agreement should include confirmation that the trustee concerned has not been involved in the discussions of the trustees over the agreement, other than in simply providing necessary information, and that the relevant trustee has not voted in any matter related to the agreement.

The agreement must be signed on behalf of the charity by an authorised party, as well as the trustee or connected person to whom the payment will be made. Once executed, this agreement forms part of the charity's accounting records and must be retained for a minimum of six years (three years in the case of a charitable company).

Trustees cannot use this power to pay trustees for simply being a trustee. In order to be able to make a payment for this, there must be express authority from the governing document, Charity Commission or a court. Without such authority, the payment would be in breach of trust. The payment of trustees is not recommended by the Charity Commission as it believes that the volunteer status of trustees enhances public confidence and trust. Additionally, there is a general principle that any charity assets be used for the purposes of the charity. Therefore, the payment is difficult to justify, but may be justified if the trustees can show that there is a clear and significant advantage to the charity for the payment. This can occur where the charity's operation is complex enough to warrant a professional trustee, or the charity has such substantial assets that a professional trustee with asset management skills is required.

When requesting that the Commission grant authority to provide payment to trustees, the trustee board must address a number of factors to show justification for the payment, including:

- steps that have been taken to recruit trustees without payment;
- clear and significant advantages to the charity in paying a trustee, rather than taking another strategic step;
- the functions of the trustee are genuinely those that should be taken by a trustee and not an employee;
- the payment is reasonable and affordable;
- risks and risk management procedures have been identified;
- the ability of unpaid trustees to review performance and terminate payments; and
- the management of conflicts of interests that may arise out of payment.

#### **(e) Reporting Requirements**

The Charity Commission imposes certain reporting requirements on charities, depending on the size of the organisation, measured by gross annual income. More information on the reporting requirements for charities can be found in the '**Filing Requirements**' section below.



## ELIGIBILITY REQUIREMENTS FOR STATUS AS A REGISTERED CHARITY

### FOUR BASIC ELIGIBILITY REQUIREMENTS OF A REGISTERED CHARITY:

1. Set up under the laws of England and Wales;
2. Set up exclusively for 'charitable purposes';
3. Aims are carried out for the benefit of the public; and
4. Annual income of at least £5,000.

### 1 SET UP UNDER THE LAWS OF ENGLAND AND WALES

This is a very simple requirement to explain – for a body to be a charity in the first place it must be set up under the laws of England and Wales.

### 2 CHARITABLE PURPOSES

#### 'CHARITABLE PURPOSES' AN ORGANISATION MAY PURSUE CAN INCLUDE:

- the prevention or relief of poverty;
- the advancement of education;
- the advancement of religion;
- the advancement of health or the saving of lives;
- the advancement of citizenship or community development;
- the advancement of the arts, culture, heritage or science;
- the advancement of amateur sport;
- the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- the advancement of environmental protection or improvement;
- the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;
- the advancement of animal welfare;
- the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services;
- other purposes recognised as charitable under the existing law and any new purposes which are similar to another prescribed purpose.

A body is only a charity if it is established exclusively for ‘charitable purposes’.

**The Charities Act 2006** (the “Charities Act”) sets out a list of purposes that are capable of being charitable, which in addition to a specific list, includes purposes previously recognised as charitable or those similar to a listed purpose and may be recognised in the future as charitable. A registered charity may have a single charitable purpose or many – there are no restrictions as long as the purpose is recognised as being charitable.

The Charities Act sets out the following descriptions of charitable purposes:

**(a) the prevention or relief of poverty;**

Poverty includes many disadvantages and difficulties arising from, or which cause, the lack of financial or material resources.<sup>9</sup>

Examples of the functions of charities which aim to relieve or prevent poverty include:

- grants of money;
- the provision of items (either outright or on loan) such as furniture, bedding, clothing, food, fuel, heating appliances and household appliances;
- payment for services such as essential house decorating, insulation and repairs, laundry, meals on wheels, days out and leisure, child-minding and utility bills;
- the provision of facilities such as the supply of tools or books, payments of fees for instruction, examination or other expenses connected with vocational training, language, literacy, numerical or technical skills, travelling expenses to work / training, equipment and funds for recreational pursuits or training intended to bring the quality of life of the beneficiaries to a reasonable standard; and
- the provision of money management and debt counselling advice.

For details of how the public benefit requirement relates specifically to charities concerned with preventing or relieving poverty, please see the Charity Commission guidance entitled “**The Prevention or Relief of Poverty for the Public Benefit**”.<sup>10</sup>

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<sup>9</sup> Previously, the law defined ‘poverty’ by reference to financial hardship or lack of material possessions, but this has now been widened

<sup>10</sup> [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Charity\\_essentials/Public\\_benefit/pbpoverity.aspx](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Charity_essentials/Public_benefit/pbpoverity.aspx)

**(b) the advancement of education;**

Education is defined widely in charity law and goes beyond education in a classroom environment. The charitable aim must be to 'advance' education. This means to promote, sustain and increase individual and collective knowledge and understanding of specific areas of study, skills and expertise.

Education includes the following:

- formal education;
- community education;
- physical education and development of young people;
- training (including vocational training) and life-long learning;
- research and adding to collective knowledge and understanding of specific areas of study and expertise; and
- the development of individual capabilities, competences, skills and understanding.

Types of charities that fall under this heading include:

- educational establishments such as schools, colleges and universities;
- organisations supporting the work of educational establishments, or associated with them, such as parent-teacher organisations, prize funds, standard-setting organisations, teacher training organisations, student unions and examinations boards;
- organisations that support the physical education of young people such as youth sporting facilities;
- organisations providing life skills training such as the Duke of Edinburgh award schemes, Scouts and Guides and Woodcraft Folk;
- research foundations and think tanks;
- learned societies such as the Royal Geographical Society, museums, galleries, libraries, scientific institutes and organisations which fund people's education;
- bodies that educate the public in a particular subject, for instance in human rights, climate change, physics and personal financial management; and
- information media such as the internet, radio, television, libraries, information centres, university presses, seminars, conferences and lectures.

For details of how the public benefit requirement relates specifically to charities concerned with advancing education, please see the Charity Commission guidance entitled "**The Advancement of Education for the Public Benefit**".<sup>11</sup>

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<sup>11</sup> [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Charity\\_essentials/Public\\_benefit/pbeduc.aspx](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Charity_essentials/Public_benefit/pbeduc.aspx)

### (c) the advancement of religion;

For the purposes of charity law, a religion is a belief system that has certain characteristics that have been delineated in case law and clarified in the Charities Act<sup>12</sup>, which states that:

“religion includes a religion which involves a belief in more than one god, and a religion which does not involve a belief in a god”

The intention of the legislation was to make clear that as well as religions that consist of the belief in one god, religions that involve belief in more than one god and those that do not involve a belief in a god are also included within the meaning of religion derived from existing case law.

Examples of the sorts of charities and charitable purposes falling within this description include:

- the provision of places of worship;
- raising awareness and understanding of religious beliefs and practices;
- carrying out religious devotional acts; and
- carrying out missionary and outreach work.

For details of how the public benefit requirement relates specifically to charities concerned with advancing religion, please see the Charity Commission guidance entitled “**The Advancement of Religion and Public Benefit**”.<sup>13</sup>

### (d) the advancement of health or the saving of lives;

The advancement of health includes the prevention or relief of sickness, disease or human suffering, as well as the promotion of health. It includes traditional methods as well as alternative or holistic processes which relate to the alleviation of symptoms and the cure of illness in the mind, body or spirit. There also needs to be sufficient evidence of the efficacy of the procedure. Assessing the efficacy of a particular therapy will depend on how it is being classified (i.e. whether it is diagnostic, curative, therapeutic and/or palliative) and whether it is offered as a complement to conventional medicine or as an alternative. Each case is considered on its merits but the **House of Lords Report**<sup>14</sup> on complementary and alternative medicine provides a valuable guide.

The relief of sickness goes beyond the treatment or provision of care, such as a hospital, to the provision of items, services and facilities to alleviate the suffering

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<sup>12</sup> Section 2(3) of the Charities Act

<sup>13</sup> [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Charity\\_essentials/Public\\_benefit/pbeduc.aspx](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Charity_essentials/Public_benefit/pbeduc.aspx)

<sup>14</sup> 6<sup>th</sup> Report of the House of Lords Select Committee on Science and Technology, Session 1999–2000: <http://www.publications.parliament.uk/pa/ld199900/ldselect/ldsctech/123/12301.htm>

or support the recuperation of people who are sick, disabled or infirm or to provide comforts for sufferers. The saving of lives includes the protection of property.

Examples of the sorts of charities and charitable purposes falling within this description include:

- charities that provide (conventional and/or complementary, alternative or holistic) medical treatment, care and healing, such as hospitals and healing centres, and charities supporting their work or associated with them, e.g. Hospital Leagues of Friends;
- charities that provide comforts, items, services and facilities for people who are sick, convalescent, disabled or infirm, e.g. Hospital Radio;
- medical research charities;
- charities that provide services and facilities for medical practitioners, such as homes for nurses;
- charities that ensure the proper standards of medical practice, e.g. the General Medical Council;
- charities that promote activities that have a proven beneficial effect on health;
- charities that provide rescue services, such as lifeboats, mountain rescue, fire, ambulance, air ambulance and first aid services, or which assist the work of the police and rescue services for example by providing emergency radio communication at national and local disasters;
- charities set up to assist the victims of natural disasters or war;
- the provision of life saving or self defence classes; and
- the provision of blood transfusion services.

**(e) the advancement of citizenship or community development;**

The advancement of citizenship or community development covers a broad group of charitable purposes directed towards support for social and community infrastructure which is focused on the community rather than the individual.

Examples of the sorts of charities and charitable purposes falling within this description include:

- the promotion of civic responsibility and good citizenship, such as good citizenship award schemes, Scout and Guide groups;
- the promotion of urban and rural regeneration<sup>15</sup>;
- the promotion of volunteering;
- the promotion of the voluntary sector;

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<sup>15</sup> See the Charity Commission's separate publication "Promotion of Urban and Rural Regeneration (RR2) - <http://www.charitycommission.gov.uk/Publications/rr2.aspx>

- promoting the efficiency and effectiveness of charities and the effective use of charitable resources;
- the promotion of community capacity building<sup>16</sup>; and
- charities concerned with social investment.

(f) the advancement of the arts, culture, heritage or science;

The advancement of art covers a wide range of charitable activity including promoting various forms of art at a national/professional and local/amateur level, the provision of arts facilities and encouraging high standards of art. 'Art' includes abstract, conceptual and performance art and representational and figurative art. Charities concerned with the advancement of art, whether visual arts or the performing arts such as music, dance and theatre, need to satisfy a criterion of merit, details of which can be found in the Charity Commission's publication "**Museums and Art Galleries (RR10)**".<sup>17</sup> 'Culture' has a very broad meaning and is often used in the context of advancing art or heritage.

'Heritage' might be regarded as part of a country's local or national history and traditions which are passed down through successive generations. Advancing heritage includes charities for the preservation of historic land and buildings.<sup>18</sup> It may also include activities concerned with preserving or maintaining a particular tradition where the benefit to the public in preserving it can be shown.

The advancement of science includes scientific research and charities connected with various learned societies and institutions.

Examples of the sorts of charities and charitable purposes falling within this description include:

- art galleries, arts festivals and arts councils;
- charities that promote, or encourage high standards of, the arts of drama, ballet, music, singing, literature, sculpture, painting, cinema, mime, etc, such as theatres, cinemas and concert halls, choirs, orchestras, music, operatic and dramatic societies;
- the promotion of crafts and craftsmanship;
- local or national history or archaeology societies;
- local arts societies;
- charities that preserve ancient sites or buildings;

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<sup>16</sup> See the Charity Commission's separate publication "The Promotion of Community Capacity Building (RR5) - <http://www.charitycommission.gov.uk/Publications/rr5.aspx>

<sup>17</sup> <http://www.charitycommission.gov.uk/Publications/rr10.aspx>

<sup>18</sup> Guidance on this can be found in the Charity Commission's publication "Preservation and Conservation (RR9) - <http://www.charitycommission.gov.uk/Publications/rr9.aspx>

- charities that preserve a specified monument, building or complex of historic/architectural importance, or the preservation of historic buildings in general, such as building preservation trusts;
- the preservation of historical traditions, such as carnivals, country/folk dancing societies, Scottish country dancing and highland dancing societies and folk clubs;
- scientific research projects; and
- charities connected with various learned societies and institutions, e.g. the Royal College of Surgeons, the Royal College of Nursing and the Royal Geographical Society.

**(g) the advancement of amateur sport;**

Amateur sport includes any sports or games which promote health by involving physical or mental skill or exertion and which are undertaken on an amateur basis. The Charity Commission's guidance entitled "**Charitable Status and Sport**"<sup>19</sup> is currently being revised to reflect the definition of sport in the Charities Act.

Examples of the sorts of charities and charitable purposes falling within this description include:

- charities advancing sport at a local level, e.g. local football, rugby, tennis clubs;
- multisports centres; and
- other organisations concerned with the promotion of a particular amateur sport or game.

Some community amateur sports clubs are registered sports clubs, which means they are clubs that are registered with HMRC under the Finance Act 2002<sup>20</sup>. Community amateur sports clubs ("**CASCs**")<sup>21</sup> registered with HMRC benefit from a range of tax reliefs, including Gift Aid. The Charities Act provides that an organisation that is registered with HMRC as a CASC which is set up for charitable purposes is to be treated as not being set up for charitable purposes and accordingly cannot be a charity. This means that an organisation advancing amateur sport can be registered as a charity, or registered as a CASC, but it cannot be registered as both.

**(h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;**

The Charity Commission's publication entitled "**The Promotion of Human Rights (RR12)**"<sup>22</sup> explains why the promotion of human rights is recognised as a charitable

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19 <http://www.charitycommission.gov.uk/Publications/rr11.aspx>

20 Schedule 18 to the Finance Act 2002 (c.23) (relief for community amateur sports club)

21 Further information about CASCs can be found at <http://www.hmrc.gov.uk/casc/>

22 <http://www.charitycommission.gov.uk/Publications/rr12.aspx>



purpose and clarifies the extent to which charities can promote human rights in countries whose domestic law provides little or no protection for such rights.

The advancement of conflict resolution or reconciliation includes the resolution of international conflicts and relieving the suffering, poverty and distress arising through conflict on a national or international scale. It includes the promotion of restorative justice, where all the parties with a stake in a particular conflict or offence come together to resolve collectively how to deal with its aftermath and its implications for the future. It also includes purposes directed towards mediation, conciliation or reconciliation as between persons, organisations, authorities or groups involved or likely to become involved in dispute or inter-personal conflict.

The promotion of religious or racial harmony or equality and diversity includes a range of charitable activity directed towards actively promoting harmony and the lessening of conflict between people from differing backgrounds, sexual orientations, races, religions or belief systems and eliminating discrimination and promoting diversity in society.

Examples of the sorts of charities and charitable purposes falling within this category include:

- charities concerned with the promotion of human rights, at home or abroad, such as helping victims of human rights abuse, raising awareness of human rights issues, and securing the enforcement of human rights law;
- charities concerned with the promotion of restorative justice and other forms of conflict resolution or reconciliation;
- charities concerned with the resolution of national or international conflicts;
- charities promoting good relations between persons of different racial groups;
- charities promoting equality and diversity by the elimination of discrimination on the grounds of age, sex or sexual orientation; and
- charities enabling people of one faith to understand the religious beliefs of others.

**(i) the advancement of environmental protection or improvement;**

The advancement of environmental protection and improvement includes conservation of the natural environment and the promotion of sustainable development. Conservation of the environment includes the conservation of a particular animal, bird, or other species or 'wildlife' in general, a specific plant species, habitat or area of land, including areas of natural beauty and scientific interest, flora, fauna and the environment generally. Charities concerned with

environmental protection or improvement may need to produce independent expert evidence to show that the particular species, land or habitat to be conserved is worthy of conservation and guidance as to this may be found in the Charity Commission's publication entitled "**Preservation and Conservation (RR9)**".<sup>23</sup>

Examples of the sorts of charities and charitable purposes falling within this description include:

- charities concerned with conservation of flora, fauna or the environment generally;
- charities involved with conservation of a particular geographical area;
- charities pursuing the conservation of a particular species;
- zoos and wildlife parks;
- the promotion of sustainable development and biodiversity;
- the promotion of recycling and sustainable waste management; and
- research projects into the use of renewable energy sources.

(j) the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;

There are a variety of charitable purposes which are directed towards the relief of those in need, by reason of youth, age, ill-health, disability, financial or other disadvantage. This includes relief given by the provision of accommodation and care to such persons.

Examples of the sorts of charities and charitable purposes falling within this description include:

- charities involved with the care, upbringing or establishment in life of children or young people, e.g. children's care homes, apprenticing;
- charities concerned with the relief of the effects of old age, such as those providing specialist advice, equipment or accommodation;
- charities concerned with the relief of disability, such as those providing specialist advice, equipment or accommodation or providing access for disabled people; and
- charities concerned with the provision of housing, such as almshouses, housing associations and registered social landlords.

(k) the advancement of animal welfare;

The advancement of animal welfare includes any purpose directed towards the prevention or suppression of cruelty to animals or the prevention or relief of suffering by animals.

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<sup>23</sup> <http://www.charitycommission.gov.uk/Publications/rr9.aspx>

Examples of the sorts of charities and charitable purposes falling within this description include:

- charities promoting kindness and to prevent or suppress cruelty to animals;
- animal sanctuaries;
- the provision of veterinary care and treatment;
- charities concerned with the care and re-homing of animals that are abandoned, mistreated or lost;
- feral animal control, e.g. neutering.

**(l) the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services;**

It is charitable to promote the efficiency of the armed forces of the Crown as a means of defending the country. That includes ensuring that those forces are properly trained and equipped during times of conflict. It also includes providing facilities and benefits for the armed forces. Similarly it is also charitable to promote the efficiency of the police, fire, rescue or ambulance services as they exist for the prevention and detection of crime, the preservation of public order and to protect the public.

Examples of the sorts of charities and charitable purposes falling within this description include:

- increasing technical knowledge of members of the services through the provision of educational resources, competitions and prizes;
- increasing physical fitness of members of the services through the provision of sporting facilities, equipment and sporting competitions;
- maintaining chapels (e.g. regimental chapels in cathedrals) or churches;
- researching the military history of a regiment or other unit, and publishing books about it;
- encouraging recruitment to the services (e.g. through exhibitions, air displays etc); and
- benevolent funds for serving members, ex-serving members, widows/ widowers of serving or ex-serving members, the dependents of serving or ex-serving members who are in need.

**(m) other purposes recognised as charitable under the existing law and any new purposes which are similar to another prescribed purpose**

Examples of the sorts of charities and charitable purposes falling within this description include:

- the provision of facilities for recreation and other leisure-time occupation in the interests of social welfare with the object of improving the conditions of

life for the persons for whom they are intended. Further guidance on this can be found in the Charity Commission's publication "**The Recreational Charities Act 1958 (RR4)**";<sup>24</sup>

- the provision of public works and services and the provision of public amenities (such as the repair of bridges and highways, the provision of water and lighting, a cemetery or crematorium, as well as the provision of public facilities such as libraries, reading rooms and public conveniences);
- the relief of unemployment;<sup>25</sup>
- the promotion of industry and commerce;
- the promotion of agriculture and horticulture;
- the promotion of mental or moral improvement;
- the promotion of ethical standards of conduct and compliance with the law in the public and private sectors;
- the rehabilitation of ex-offenders and the prevention of crime.

To be a charity, all of an organisation's purposes must be exclusively charitable: it cannot have some purposes which are charitable and others which are not. The Charities Act defines a charitable purpose, explicitly, as one that falls within the list of thirteen descriptions of purposes listed above and is for the public benefit (as described further below).

### 3 PUBLIC BENEFIT

#### A CHARITY'S REQUIREMENTS REGARDING BENEFIT TO THE PUBLIC

- A charity must show to the Charity Commission identifiable benefit made to the public or section of the public
- Trustees have a duty to ensure aims are carried out for public benefit and detail benefit in its annual report
- There is no public benefit if beneficiaries are named or if there is a personal or contractual link between them
- A disaster appeal may fail the public benefit test if it addresses specific individuals regardless of need

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<sup>24</sup> <http://www.charitycommission.gov.uk/Publications/rr4.aspx>

<sup>25</sup> Further guidance on which can be found in the Charity Commission's publication "The Relief of Unemployment (RR3)" <http://www.charitycommission.gov.uk/Publications/rr3.aspx>

A charity must be able to demonstrate that all of its aims are carried out for the benefit of the public.<sup>26</sup> To satisfy the public benefit requirement, charities must show that there is an identifiable benefit provided by the charity and that this benefit is made to the public or a section of the public. The identifiable benefit must be clear, related to the aims of the charity and balanced against any detriment or harm. Public benefit requires that the beneficiaries be appropriate to the aims of the charity and not unreasonably limited by geographical restrictions or ability to pay any fee charged. Furthermore, the poor must not be excluded and any private benefits to individuals must be incidental.

Charity trustees are under a duty, in respect of the public benefit requirement, to ensure that they carry out their charity's aims for the public benefit, have regard to guidance published by the Charity Commission on public benefit and report on their charity's public benefit in their trustees' annual report. Charity trustees must be aware of, and fulfil their statutory duties with regard to public benefit both at registration and throughout the life of the charity.

When assessing the public benefit of an organisation applying to register as a charity, the Charity Commission may consider its activities to clarify what its aims are, to decide whether those aims are charitable and to ensure that the aims are, will or may be, carried out for the public benefit. The Charity Commission may consider factual background information, such as evidence of its activities, or proposed activities, in order to decide whether or not its aims are charitable and for the public benefit. Where possible the Charity Commission has stated it will use the information an organisation provides on its application form to make such a decision. The Charity Commission may ask for further information if it is not clear that the aims are and will be carried out for the public benefit. Where the Charity Commission is not satisfied that the public benefit requirement will be met, it may refuse registration, or ask the applicant to amend their organisation's objects or activities to ensure it will meet the public benefit requirement before proceeding with registration.

A charity will not be for the public benefit if the beneficiaries are named individuals, or if a personal or contractual relationship exists between them. For example, if the beneficiaries are identified by being people related to the person setting up the charity, or by being members of a certain family, then the personal relationship will cause the arrangement to fail the public benefit requirement. Equally, if a contractual relationship exists between the parties, such as a fund set up for the benefit of employees of a certain company, then this will not constitute a charity for the public benefit. The exception to this rule is that a charity with the aim of preventing or relieving poverty can be for the benefit of a more restricted group of beneficiaries, such as the employees of a particular company. Certain organisations cannot be for the public benefit, for

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<sup>26</sup> Formerly, it was presumed that organisations that relieved poverty, or advanced education or religion had purposes that were for the public benefit. The Charities Act removed that presumption.

example those with illegal aims, those set up for the personal benefit of their trustees or other specific individuals, and those with political aims.

Fundraising is a special category where complex rules apply and it is first necessary to consider whether fundraising falls within the objects of the existing charity or whether a new charity needs to be set up.<sup>27</sup> It is important, when making an appeal to the public for money, to ensure that the terms of the appeal correspond with the aims for which the charity intends to use the money. Particular care should be taken in respect of disaster appeals, which are not always charitable as they may benefit specific individuals regardless of need. Although decisions on disaster appeals need to be taken quickly, the Charity Commission recommends consulting them early, before launching such an appeal, and refers applicants to the Attorney General's guidelines about disaster appeals entitled "**Disaster Appeals: Attorney General's Guidelines (CC40)**".<sup>28</sup> HMRC has also issued guidance called "Guidelines on the Tax Treatment of Appeal Funds", which is available on its website.<sup>29</sup>

The Charity Commission provides further guidance in its publication entitled "**Charities and Public Benefit**"<sup>30</sup>, which elaborates on the meaning of the public benefit requirement, the principles of public benefit contained within existing case law and the Charity Commission's role in ensuring that all charities have charitable aims that are for the public benefit. It also highlights the requirement for charity trustees to report on their charity's public benefit in their trustees' annual report, describes the Charity Commission's approach in assessing whether the public benefit requirement is met by individual charities and sets out the resources that trustees can use to help ensure that their charity meets the public benefit requirement.

#### 4 ANNUAL INCOME OF AT LEAST £5,000

An additional requirement for registration of a charity is that the charity must have an income of more than £5,000 a year. There are two main exceptions to this requirement: firstly, where a high profile organisation seeking charitable status is likely to receive significant funding in a short amount of time, or where an organisation will receive significant 'grant funding' once it becomes a registered charity and can provide specific information to evidence that. The

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27 Please see the section entitled "**Fundraising**" in this document. Additionally, the Charity Commission provides further guidance in its publication entitled "Charities and Fundraising (CC20)" – <http://www.charity-commission.gov.uk/Publications/cc20.aspx>

28 <http://www.charity-commission.gov.uk/Publications/cc40.aspx>

29 [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

30 [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Charity\\_essentials/Public\\_benefit/public\\_benefit.aspx#d](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Charity_essentials/Public_benefit/public_benefit.aspx#d)

Charity Commission also provides resources for organisations which do not meet this requirement.<sup>31</sup>

## RESPONSIBILITIES OF A REGISTERED CHARITY

### 1 FILING REQUIREMENTS

There are three principal filing documents that charities may have to file with the Charity Commission, and they may be completed and filed online:<sup>32</sup>

- Annual Return
- Trustees' Annual Report ("TAR")
- Charity Accounts

The requirements of charities with respect to these documents vary depending on the size of the charity as determined by its annual income. The table below sets out the filing requirements as they relate to charities with differing gross incomes.

ANNUAL INCOME (GROSS)	ANNUAL RETURN	TRUSTEES' ANNUAL REPORT	ANNUAL ACCOUNTS
LESS THAN £10,000	Only submit an Annual Return when there are any changes to the charity's details - including trustees, income and expenditure and area of operation	Must prepare the TAR for the Charity's own records, but do not need to send it to the Charity Commission	Must prepare Annual Accounts
BETWEEN £10,000 AND LESS THAN £25,000	Must submit an Annual Return every year, using Part A to update information on the charity regarding contact and trustee details, income and expenditure and area of operation	Must prepare the TAR for the Charity's own records, but do not need to send it to the Charity Commission	Must prepare Annual Accounts

31 [http://www.charitycommission.gov.uk/Start\\_up\\_a\\_charity/Do\\_I\\_need\\_to\\_register/Resources\\_for\\_very\\_small\\_charities.aspx](http://www.charitycommission.gov.uk/Start_up_a_charity/Do_I_need_to_register/Resources_for_very_small_charities.aspx)

32 Charities can log in at the "Charity Commission Online Services Log-in" using their charity registration number and a password - <https://www.charitycommission.gov.uk/officeforms/CCPortal.ofml>

ANNUAL INCOME (GROSS)	ANNUAL RETURN	TRUSTEES' ANNUAL REPORT	ANNUAL ACCOUNTS
BETWEEN £25,000 AND £500,000	Must complete Part A of the Annual Return (charity information)	Must prepare and send the TAR to the Charity Commission	Must prepare Annual Accounts and have them externally scrutinised. The Annual Accounts must be submitted to the Charity Commission
BETWEEN £500,000 AND £1 MILLION	Must complete Part A (charity information) and Part B (financial information) of the Annual Return	Must prepare and send the TAR to the Charity Commission	Must prepare Annual Accounts and have them externally scrutinised. The Annual Accounts must be submitted to the Charity Commission
OVER £1 MILLION	Must complete Part A (charity information), Part B (financial information) and Part C (summary information return).	Must prepare and send the TAR to the Charity Commission	Must prepare Annual Accounts and have them externally scrutinised. The Annual Accounts must be submitted to the Charity Commission

### ANNUAL RETURN<sup>33</sup>

The first accounting document that Charities must consider is the Annual Return. This is a document that is sent to the Charity Commission which informs them of any changes in the general charity information, the financial information of the charity, and an update on the yearly performance of the charity. As can be seen from the table above, not all charities need to complete every section of the Annual Return.

The Annual return consists of three main parts:

- Part A contains information on the charity which allows the Charity Commission to update the entry in the Charities Register. The main information that it covers includes contact information, trustee details and income and expenditure.
- Part B should contain detailed financial information on the charity. This includes details on the assets and liabilities, investments and employees of the charity. In order to fill in this section accurately it should be done by somebody familiar with the accounts and requires a copy of the charity's published accounts to help supply some of the information.
- Part C is the 'summary information return', which applies to larger charities with income of over £1 million. In this section the charity must describe the key aims, activities and achievements of the charity. This information is then displayed on the Charities Register and assists the public to judge the performance of the Charity.

<sup>33</sup> Information on the Annual Return can be found at [http://www.charitycommission.gov.uk/Charity\\_requirements\\_guidance/Accounting\\_and\\_reporting/Preparing\\_annual\\_returns/default.aspx](http://www.charitycommission.gov.uk/Charity_requirements_guidance/Accounting_and_reporting/Preparing_annual_returns/default.aspx)



- If an Annual Return is required to be filed with the Charity Commission, it must be received by the Commission within ten months of the end of the financial period that it relates to.

#### TAR<sup>34</sup>

The TAR has four aims and functions:

- sets out the charity's aims and achievements for the year;
- explains the objectives and methods of the charity;
- allows the trustees to explain matters from the accounts; and
- adds to the transparency and accessibility of the financial information of the charity.

All charities must prepare a TAR although only charities with over £25,000 gross income need submit it to the Charity Commission. The detail of the report is also relative to the size of the charity so the report can be simpler for smaller charities to compile. The TAR need not be written by the trustees and parts of it are often delegated to staff, volunteers and professional advisors.

#### HELPFUL HINT

The overall ownership of the TAR belongs to the trustees who must ensure that they are familiar with the content, understand the representations they are giving (such as that they have paid regard to the Charity Commission's public benefit guidance) and are confident about the accuracy of the report.

Examples of TARs can be found on the Charity Commission website,<sup>35</sup> while the table below details the content requirement of the reports depending on the gross income of the charity.

REQUIREMENTS FOR ALL CHARITIES	ADDITIONAL REQUIREMENTS FOR LARGER CHARITIES SUBJECT TO STATUTORY AUDIT (OVER £500K GROSS INCOME [OR £250K WITH ASSETS OF OVER £3.26M])
REFERENCE AND ADMINISTRATIVE DETAILS OF THE CHARITY, ITS TRUSTEES AND ADVISORS	
The charity name, registration number, address of principal office and registered office (if applicable), the names of the trustees at time of report (or at least 50, if more than 50 trustees), the names of anyone who had been a trustee during the year that the report relates to	The names of the CEO or other senior officers who manage the day to day running of the charity and the names and addresses of other relevant parties, including parties acting as bankers, solicitors, auditors or advisers for the charity

<sup>34</sup> Guidance on filing a TAR can be found at [http://www.charitycommission.gov.uk/Charity\\_requirements\\_guidance/Accounting\\_and\\_reporting/Preparing\\_annual\\_reports/default.aspx](http://www.charitycommission.gov.uk/Charity_requirements_guidance/Accounting_and_reporting/Preparing_annual_reports/default.aspx)

<sup>35</sup> [http://www.charitycommission.gov.uk/Charity\\_requirements\\_guidance/Accounting\\_and\\_reporting/Preparing\\_annual\\_reports/Example\\_Annual\\_Reports\\_index.aspx](http://www.charitycommission.gov.uk/Charity_requirements_guidance/Accounting_and_reporting/Preparing_annual_reports/Example_Annual_Reports_index.aspx)

REQUIREMENTS FOR ALL CHARITIES	ADDITIONAL REQUIREMENTS FOR LARGER CHARITIES SUBJECT TO STATUTORY AUDIT (OVER £500K GROSS INCOME [OR £250K WITH ASSETS OF OVER £3.26M])
DETAILS ON THE STRUCTURE, GOVERNANCE AND MANAGEMENT OF THE CHARITY	
Details of governing document, incorporation status of the charity and the methods for appointment of new trustees	Policies for inducing and training trustees, details on the organisational and decision making structure of the charity, information on any subsidiaries or partners that the charity co-operates with and a statement of the major risks to the charity and the policies in place to manage those risks
FINANCIAL REVIEW OF THE CHARITY	
Details of reserves or deficits and reasons for the existence of the reserve or deficit	Information on the principal funding sources, details on how expenditure has supported the objectives
INFORMATION ON ANY FUNDS HELD BY THE CHARITY ACTING AS TRUSTEE FOR A THIRD PARTY	
In addition to being managed by trustees, a charity itself can act as a trustee over assets of a third party. The TAR requires details of any assets that the charity holds as a trustee, including a description of the assets, identification of who they are being held for and details of how these assets are being segregated from the assets of the charity	Details of investment policies on any investments held by the charity including social, ethical or environmental considerations to holding those investments
BENEFIT STATEMENT	
A statement confirming that the charity trustees have complied with the public benefit requirement and that they have followed the guidance issued by the Charity Commission on this requirement	
OBJECTIVES AND ACTIVITIES	
A summary description of the purposes of the charity and the main activities undertaken by the charity to further its charitable purposes	Detailed information on the charity's main objectives for the year, the strategies proposed to reach the objective, information on grant programmes and volunteer schemes that the charity runs
ACHIEVEMENTS AND PERFORMANCE	
A brief summary of the achievements of the charity during the year and how the achievements related to the aims and objectives of the charity	More detailed assessment of how the achievements related to the charity's aims, information on significant fundraising activities, and performance of investments held by the charity and analysis of how internal and external factors have affected the charity's achievements
PLANS FOR THE FUTURE	
Details of the charity's plans for the future, including the aims and objectives for the future period and any planned activities	

The Charity Commission provides guidance in relation to annual reports for small charities with income of less than £25,000<sup>36</sup> and also provides guidance for charities with income below the audit threshold, including a proforma TAR.<sup>37</sup> The Charity Commission also recommends that large (income over £250,000) non-company charities and company charities refer to the 2005 Statement of Recommended Practice ("**SORP**")<sup>38</sup> for guidance on the TAR.

#### HELPFUL HINT

It is important to note that SORP only applies to charities which follow the accruals method of accounting, reporting when an event occurs rather than when they actually receive and spend the cash, which is known as receipt and payments accounting.

### THE ANNUAL ACCOUNTS

Detailed annual accounts are one of the key ways to maintain public faith and confidence in a charity. The accounts, required by law, allow for further transparency within the charity. The accounting requirements vary depending on whether the charity has been incorporated as a company or not.

#### NON-COMPANY CHARITIES

The accounts can either be prepared on the receipts and payments basis or on the accruals basis depending on the size of the charity. It is important that the accounts show a 'true and fair view' of the charity, in accordance with accountancy principles.

**RECEIPTS AND PAYMENTS BASIS**<sup>39</sup> – This is the simpler method and may be used when a non-company charity has an annual gross income of £250,000 or less.

This method consists of an account summarising all money received and paid out by the charity during the year, and a statement containing details of all assets and liabilities of the charity at the end of the year.

**ACCRUALS**<sup>40</sup> – All non-company charities with a gross income of over £250,000 must prepare their accounts using the accrual basis.

This involves preparing a balance sheet demonstrating the financial position of the charity at the end of the year, a Statement of Financial Activities ("**SoFA**")

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36 [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Accounting\\_and\\_reporting/Preparing\\_charity\\_accounts/scsorp.aspx](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Accounting_and_reporting/Preparing_charity_accounts/scsorp.aspx)

37 [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Accounting\\_and\\_reporting/Preparing\\_annual\\_reports/What\\_information\\_index.aspx](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Accounting_and_reporting/Preparing_annual_reports/What_information_index.aspx)

38 <http://www.charitycommission.gov.uk/Library/guidance/sorp05textcolour.pdf>

39 Templates for the 'receipts and payments' accounts can be found at <http://www.charitycommission.gov.uk/Publications/cc16.aspx>

40 Templates for charities using the 'accruals' method can be found at <http://www.charitycommission.gov.uk/Publications/cc17.aspx>

and explanatory notes to accompany those documents. The SoFA should show all incoming resources and any resources expended during the year.

Certain charities require these accounts to be externally scrutinised. The type of scrutiny will vary depending on the income and size of the charity but the basic rule is that charities with between £25,000 and £500,000 gross income need to have the accounts independently examined, while charities with gross income of over £500,000 (or £250,000 if assets total more than £3.26m) must have the accounts audited.

### COMPANY CHARITIES

The accounting requirements differ slightly for charities that have been incorporated as a company. They must prepare a directors' report and accounts and file them with Companies House. These accounts must be prepared based on the accruals method. The audit requirements of the Companies Act mirror the Charity Commission guidelines and an audit of the accounts is needed if the charity has over £500,000 gross income (or over £250,000 with assets totalling over £3.26m). If no audit is required the accounts must be accompanied by a statement detailing that the charity is exempt from the auditing requirements.

## 2 REPORTING OF SERIOUS INCIDENTS<sup>41</sup>

In addition to the yearly filing requirements, all charities have a responsibility to report any incidents of a serious nature to the Charity Commission.

This should be done immediately when the incident occurs, however there is an additional declaration in the annual return which states that there are no serious incidents that the Charity Commission have not been informed about. The charities which fulfil the criteria to submit the annual return must sign this declaration or else the trustees are deemed to have not complied with the requirement to submit an accurate and complete annual return.

A serious incident has been described by the Charity Commission as an incident which involves any of the following:

- significant financial loss to the charity;
- serious harm to beneficiaries and, in particular, vulnerable beneficiaries;
- threats to national security, specifically terrorism;
- criminality and/or illegal activity within or involving a charity;
- sham charities set up for an illegal or improper purpose;
- charities deliberately being used for significant private advantage;
- where a charity's independence is seriously called into question;

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<sup>41</sup> Guidance on this subject can be found at <http://www.charity-commission.gov.uk/Library/rsinotes.pdf>

- issues that could damage the reputation of an individual charity or class of charities or the wider charity sector; and
- issues that could damage public trust and confidence in charities or the Charity Commission as an effective regulator.

Additionally, this responsibility to report includes any non-minor incidents that have been reported to the police, or any incidents that either the trustees, a professional advisor or the internal risk assessors believes presents a significant risk to the charity, its beneficiaries, reputation or assets.

## OPERATING AS A REGISTERED CHARITY

### 1 CHOOSING A NAME

There are a number of general rules that govern whether a name will be acceptable for use by a charity. The Charity Commission has the power to force a charity to change its name in certain circumstances.<sup>42</sup> This power can be used at any time after the charity has been registered, regardless of how long the charity has been on the Register of Charities.

Before the charity is registered, the name will be checked against the Register of Charities to ensure it is not identical or too similar to a name already registered. If, in the Charity Commission's opinion, it is unacceptable for the name to be used then once the charity is registered the Commission may use its powers to insist on a change of name.

#### HELPFUL HINT

It is important to note that even if a name is entered on the Register, the Charity Commission may still request that it be changed. If this happens, the Charity Commission will not be responsible for any costs incurred by the organisation as a result of the direction to change its name.

The Charity Commission will not allow any name that causes offence, so as not to harm the interests of the charity and the charitable sector in general.

Additionally an extra request must be made to use the word 'charity' or a derivative of that word in an organisation's name. In that case the charity

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<sup>42</sup> Section 6 of the Charities Act 1993

must gain permission from the Secretary of State for Business, Enterprise and Regulatory Reform. Before registering, Companies House will require a letter from the Charity Commission stating that they have no objections to the name. An organisation should make this request to the Charity Commission at the same time as a request for registration, and both of these requests will be considered concurrently.

## 2 FUNDRAISING

### GUIDELINES AND LIMITATIONS REGARDING FUNDRAISING BY A REGISTERED CHARITY

- Fundraising may be the only form of income available to charities
- Fundraising is subject predominantly to self regulation by organisations within the charity sector rather than by the Charity Commission
- Charities should follow guidelines in “Codes of Fundraising Practice” developed by the Institution of Fundraising
- The Fundraising Standards Board addresses complaints and awards marks of compliance to charities
- Fundraising accounting and reporting provisions are subject to specific laws
- Charities can get VAT exemptions, zero-rate exemptions and other tax exemptions on fundraising activities
- Certain charities can be subject to identification obligations when fundraising
- A fundraising appeal can ‘fail’ if insufficient funds are raised for the purpose or if excess funds are raised for that purpose
- Conditional donations must be compatible with charitable purposes and aims

### HELPFUL HINT

It is important to consider whether, if there are similar charities covering the same area, it would be a more suitable option to combine with an existing charity, rather than setting up a new organisation. This would help both entities become more efficient and prevent diluting the fundraising pool. To find a suitable charity, you can use the online Register of Charities.

The ability to fundraise is an important factor to consider when setting up a charity. For many charities it is the only form of income that is available. Fundraising is particularly difficult for new charities, as people and organisations may prefer to give the limited funds available to established charities.

The Charity Commission does not generally regulate fundraising, which is undertaken in some part by the law but predominantly by self regulation in the industry through the Institution of Fundraising and the Fundraising Standards Board, which is the independent complaints body.<sup>43</sup>

### (a) Self Regulation

Self regulation is an important aspect of this area. Charities should follow the **Codes of Fundraising Practice**<sup>44</sup>, developed by the Institution of Fundraising, which provide guidelines encouraging transparency and accountability in fundraising, allowing the public to donate with confidence.

Charities, and particularly trustees, should be aware of provisions in the Codes of Fundraising Practice and make sure that their fundraising projects follow the best practices of the industry. The Fundraising Standards Board deals with complaints relating to the self regulation of charities and the Codes of Fundraising Practice. It also gives marks of compliance to charities, called the 'Give with Confidence' tick. This is an important tool, together with the transparency and accountability principles in the Codes, for ensuring public faith in the fundraising strategies.

Charities must ensure that they have adequate complaints procedures in place (as discussed in the last paragraph of this section), which will not only improve public confidence in the charity, but also increase the likelihood that fraudulent fundraising activity within the charity will be exposed. The Charity Commission also states that charities should put in place steps to ensure that fraudulent fundraising activities are dealt with, such as reporting such incidents to the police, and also to the Charity Commission itself<sup>45</sup>. Furthermore, charities should ensure that the fundraising methods that they employ are as cost-effective as possible and that they are open and transparent.

### (b) Laws Relating to Fundraising

While self-regulation is an important aspect of fundraising, laws do govern some fundraising areas. There are specific laws relating to the accounting procedures of charities with regard to declaring fundraising activities in the annual report and accounts. For example, SORP states that the trustees should

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<sup>43</sup> However the Charity Commission provides guidance in its publication entitled "Charities and Fundraising (CC20)".

<sup>44</sup> [http://www.institute-of-fundraising.org.uk/Codes\\_and\\_regulation/Codes](http://www.institute-of-fundraising.org.uk/Codes_and_regulation/Codes)

<sup>45</sup> [http://www.charity-commission.gov.uk/our\\_regulatory\\_activity/reporting\\_issues/rsinotes.aspx](http://www.charity-commission.gov.uk/our_regulatory_activity/reporting_issues/rsinotes.aspx)

report on fundraising activities undertaken by the charity in the year. The report should cover all fundraising-related expenditure and all charities with a gross income over £500,000 are required to follow the recommendations of SORP in full. Every registered charity is expected to produce an annual report and accounts that explains where its money comes from but SORP only applies if the charity prepares accruals accounts, as discussed in the section entitled **“Annual Return”**.

Additionally, although tax relief may be available to charities on certain matters, it is important for the charity to consider the taxation issues related to holding fundraising events. In particular, fundraising events may be classed as taxable business activities and income arising from such events, including admission charges, advertising charges and sales income would be subject to a VAT charge. However, HMRC provides a VAT exemption if certain criteria are fulfilled:

- the event must be organised primarily to raise funds, rather than a social event that incidentally makes a profit;
- the event must be of a non-recurring nature and not part of an ongoing activity such as the operations of a shop; and
- there is a limit of 15 events of the same kind at the same location in one financial year. If there are more than 15 events held in the same location then no VAT exemption can apply to any of these events.

If a VAT exemption applies then no VAT will be payable on certain income generated by the event, including:

- all admission charges;
- the sale of commemorative brochures;
- the sale of advertising space in those commemorative brochures;
- items sold at the event; and
- sponsorship payments directly associated with the event.

In addition to the specific VAT exemption for charity events, charities may also benefit from the zero-rated exceptions applicable to certain items, which can be sold without incurring VAT, regardless of whether the event falls under the VAT exemption. Zero-rated items are:

- donated goods sold by a charity;
- selected foodstuffs;
- certain printed books, magazines and brochures;
- young children’s clothing;
- advertising time or space to a charity.



There is more information on VAT exemptions for charities on the HMRC website<sup>46</sup>.

Charities may also be subject to identification requirements on fundraising notices and advertisements. A registered charity with an income above £10,000 a year must state it is a registered charity on a range of documents including on its website, advertisements and other documents such as receipts. This requirement extends to any notices, advertisement or documents used to fundraise.

### SPECIFIC FUNDRAISING EVENTS

Depending on the type of fundraising event that the charity is undertaking there may be specific laws related to that activity. For example a charity wanting to run a lottery to raise funds will be subject to the Gambling Act, while public collections (street collections, door-to-door collections, face-to-face collections) may require permission from relevant local authorities. There are also specific regulations for telephone and internet fundraising, fundraising involving professional fundraisers, fundraising involving commercial participators and charity staff paid to fundraise in public places.

### Specific Fundraising Issues

There are certain other issues relating to fundraising that a charity should be aware of, such as the 'failure' of a fundraising appeal. The Charity Commission considers an appeal has failed either if insufficient funds have been raised for the stated purpose to be achieved or if excess funds have been raised which cannot be put towards that purpose. If an appeal for a specific purpose does not raise sufficient funds, donors may be entitled to a refund. If it raises excess funds, legal authorisation or a scheme from the Commission may be needed before the excess funds can be directed to a similar purpose. These issues can cost time and resources, so trustees should take steps to prevent this occurring where possible.<sup>47</sup>

Charities should also be wary about accepting donations with conditions attached, ensuring that those conditions are compatible with the purposes, priorities and activities of the charity. If the conditions are so stringent that they could undermine the charity's independence, for example if they restrict the discretion of the trustees or give the donor an unacceptable right to choose the beneficiaries of the charity, the donation may need to be refused. Further information can be found in the Institute of Fundraising's **Acceptance and Refusal of Donations Code of Fundraising Practice**.<sup>48</sup> Some charities have been victims of criminal activity as the charity has been used to launder funds.

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<sup>46</sup> <http://www.hmrc.gov.uk/charities/vat/intro.htm>

<sup>47</sup> The Charity Commission provides further guidance on its website:  
[http://www.charity-commission.gov.uk/About\\_us/OGs/index053.aspx](http://www.charity-commission.gov.uk/About_us/OGs/index053.aspx)

<sup>48</sup> [http://www.institute-of-fundraising.org.uk/Codes\\_and\\_regulation/Codes/codes-directory](http://www.institute-of-fundraising.org.uk/Codes_and_regulation/Codes/codes-directory)

Charities should be careful to identify possible loans or donations that are suspicious and report them to the Charity Commission.

#### COMPLAINTS PROCEDURE

Although this is not specifically related to fundraising, charities should have a complaints procedure that is accessible, open and transparent, and should deal with complaints within a reasonable time frame. In its publication entitled **“Cause for Complaint (RS11)”**,<sup>49</sup> the Charity Commission sets out the elements that a good complaints procedure should contain. If a complainant is not content with the response received from the charity then it may pursue its complaint with the independent Fundraising Standards Board once the charity’s internal procedures have been exhausted. The Charity Commission may also become involved if there is a possible case of serious mismanagement, a serious risk of harm to the charity and its funds, a sign that funds raised for charitable purposes or in the name of the charity have been misappropriated or when public trust and confidence has been damaged by a charity. Otherwise, the Charity Commission will refer most complaints about poor fundraising practice to the Fundraising Standards Board where relevant. The Charity Commission has produced a publication entitled **“Complaints about Charities (CC47)”**<sup>50</sup> which discusses the circumstances in which it will, and will not, investigate complaints.

### 3 TRUSTEES

#### REQUIREMENTS REGARDING TRUSTEES

- All charities require a body of trustees
- Individuals generally should not financially benefit from acting as trustee
- There are restrictions on who can be a trustee
- Trustees should be appointed based on experiences and skill, not status in the community
- Trustees have a duty to act in the best interests of the charity and must exercise a duty of care
- Trustees must follow trustee principles set by the Charity Commission
- Trustees are responsible for overseeing any fundraising activities to ensure they fit in with charitable aims
- Liability of a charity does not rest with the trustees, unless they act in breach of duties or it is stated in the charity’s governing document

<sup>49</sup> <http://www.charity-commission.gov.uk/publications/rs11.aspx>

<sup>50</sup> <http://www.charity-commission.gov.uk/library/guidance/cc47text.pdf>

All charities must have a clearly identified body of trustees. These are people who are responsible for ‘the general control and management of the administration of a charity’. While they are a necessary requirement for all charities, the body of trustees may be called by various names depending on the governing document of the charity, including executive committee members or the board of directors.

It is a general legal principle that trustees should not financially benefit from the charity due to the fiduciary nature of their position in running the charity. As discussed earlier in the section entitled **“Giving of Financial Benefits to Trustees”**, there are restrictions on the financial benefits trustees can receive from a charity. However, they may so benefit if they are authorised by the charity’s governing document or by the Charity Commission. This legal principle does not prevent the charity trustees of a community charity (such as a church) from enjoying the benefits of that charity as a member of their community. If you are in doubt as to whether this may apply to your charity please see the guidance of the Charity Commission entitled **“Users on Board: Beneficiaries who become trustees (CC24)”**<sup>51</sup>.

#### RESTRICTIONS OF THE TRUSTEES

Trustees must be over the age of 18, unless the charity is a registered company in which case the general limit for a company director is 16.

People are unable to become a trustee if they:

- have unspent deception or dishonesty convictions;
- are undischarged bankrupts<sup>52</sup>;
- have been removed from a trustee role by a court or the Charity Commission previously; or
- are subject to a director disqualification order.

#### SELECTION OF A TRUSTEE

It is important to select an appropriate group of trustees for the charity. They need to be able to give the necessary time towards the charity and are expected to take an active role in the running of the charity. The Charity Commission recommends the appointment to be based on experience and skills, rather than on status and position in the community, which is the function of patrons, and creating a diverse range of trustees will increase accountability in the charity.

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<sup>51</sup> <http://www.charity-commission.gov.uk/Publications/cc24.aspx>

<sup>52</sup> An undischarged bankrupt is a person who has been declared bankrupt and has not been granted an ‘order of discharge’ by a Court. The order of discharge releases the bankrupt person from all current debts and frees them from the legal restraints of bankruptcy

## DUTIES OF THE TRUSTEES

Trustees handle the management of the charity and their role and responsibilities will be defined in the governing document of the charity.

A trustee has a number of duties that they owe to the charity. These dictate that the trustee must act in the best interest of the charity, act in a prudent manner and exercise a duty of care.

In addition to the duties, the Charity Commission have set out certain principles that the trustee should follow when administering the charity:

- the income and property of the charity must only be used to fulfil the charitable aims set out in the governing document and for no other purpose;
- trustees should only retain the charity's income as a reserve in accordance with a clear policy covering those situations<sup>53</sup>;
- trustees must act reasonably and prudently in all matters and act in the best interests of the charity at all times;
- trustees are required to exercise the same care in matters related to the charity as the prudent business person would exercise in their own business;
- trustees should not be allowed to participate in issues which affect their personal interests; and
- trustees should ensure the charity complies with charity law, the requirements of the Charity Commission and the governing document at all times.

Fundraising is an important aspect of a charity's activities and trustees have a responsibility to ensure that any fundraising is done in the best interests of the charity and that the charity's resources are appropriately spent. Trustees are responsible for the charity's approach to income generation and have overall responsibility to consider each fundraising appeal to ensure that it has been appropriately planned and follows the charity's values and objects. The trustee should pay particular attention to ensuring an adequate risk assessment has been considered on the fundraising strategy, judging the potential cost and the anticipated benefit and any possible damage to the reputation of the charity among the public. Trustees also have a duty to ensure that fundraising activity complies with all laws relating to fundraising.

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53 Charities' Reserves (CC19) – <http://www.charity-commission.gov.uk/Publications/cc19.aspx>

Often a charity will give permission for people to raise money on its behalf, either through sponsored events or the use of professional fundraisers. In these circumstances the trustee must ensure that certain features of the fundraising are still supervised by the charity so that the work of the charity is accurately described in any fundraising materials and all fundraising money received is paid into the charity's accounts before any fees or expenses are paid. Additionally, in the case of professional fundraisers or commercial partners, the trustee has a duty to ensure that written agreements are in place to satisfy legal requirements.

### LIABILITY OF THE TRUSTEES

Generally, if a trustee complies with his duties and acts in accordance with the charity's governing document, then any liabilities incurred will be the responsibility of the charity. However a trustee may be personally liable where the trustee acts in breach of the trust or in breach of his duties as a trustee. In these circumstances the trustee in breach, as well as the other trustees, who are normally jointly liable, would be liable to meet any liabilities incurred due to his actions.

Additionally a trustee is liable for any debt which totals more than the value of the charity's assets. Therefore trustees must be wary about the charity entering into contracts or undertaking borrowings that result in liabilities greater than the charity's assets, and should be aware of the risk of being personally liable for any debt that the charity cannot pay. The Charity Commission recommends using the company charity structure if the charity is planning to enter into such contracts or take on employees.

For more information about trustees' duties please see the Charity Commission's publication entitled "**The Essential Trustee: What you need to know (CC3)**"<sup>54</sup>. There is also further guidance which is especially useful for current trustees and those wishing to be trustees on the Charity Commission's website.<sup>55</sup>

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<sup>54</sup> [http://www.charity-commission.gov.uk/our\\_regulatory\\_activity/reporting\\_issues/rsinotes.aspx](http://www.charity-commission.gov.uk/our_regulatory_activity/reporting_issues/rsinotes.aspx)

<sup>55</sup> Trustee expenses and payments (CC11):  
<http://www.charity-commission.gov.uk/Publications/cc11.aspx>;  
Finding new trustees: What charities need to know (CC30):  
<http://www.charity-commission.gov.uk/Publications/cc30.aspx>



# NON-DOMESTIC CHARITY ISSUES

## NON-DOMESTIC CHARITY OPERATING IN ENGLAND AND WALES

As discussed earlier, the Charity Commission is only able to register charities that are governed by the laws of England and Wales. Therefore any organisation that has been set up under the laws of any other country, including Scotland, Northern Ireland and the Channel Islands, is not eligible for registration with the Charity Commission.

However, the fact that a charity may not be able to register with the Charity Commission does not preclude the opportunity to gain other benefits that charitable status grants an organisation. It is possible to apply to HMRC for charitable status.<sup>56</sup> This will allow the organisation to benefit from tax relief provisions such as in relation to corporation tax and capitals gains tax, and the charity number that HMRC supplies can be used to evidence the organisation's charitable status. The test for whether HMRC will grant the status as a charitable organisation has four elements, as set out earlier in this guide in the section entitled, "**Advantages of being a registered charity**".

## DOMESTIC CHARITY OPERATING IN FOREIGN COUNTRY OR MAKING FOREIGN CHARITABLE CONTRIBUTIONS

### GUIDELINES TO OPERATING AS A CHARITY OVERSEAS

- The Charity Commission provides guidance on operating abroad
- There are potential benefits / requirements to additional registration in a foreign country
- A charity's use of funds overseas must fall within charitable purposes
- If a charity operates overseas, additional financial controls to prevent unnecessary risk may be required
- A charity may find it more efficient to enter partnership with local charity than to operate there itself
- A charity must have adequate monitoring and reporting of foreign operations

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<sup>56</sup> <http://www.hmrc.gov.uk/charities/tax/recognition.htm>

Although the Charity Commission only regulates charities that are governed by the laws of England and Wales, it provides useful guidance and advice on measures to take if the charity operates internationally.<sup>57</sup> The Charity Commission also provides a useful list of contacts that domestic charities working abroad may need, whether to provide them with specific advice, such as taxation and HR advice, or general information on voluntary work overseas.<sup>58</sup>

## REGISTRATION

It will be necessary to consult the specific regulations of the country that the charity wishes to operate in, to discover the registration requirements of that country. Information on specific regulatory regimes around the world can be found on the Charity Commission's International Programme Website.<sup>59</sup>

If the charity is operating in a foreign country then it may be beneficial to register as a charitable organisation in that country, in addition to being registered as a charity in England and Wales through the Charity Commission. This registration may provide tax advantages for the charity, as well as increased opportunities to promote itself as a charity when organising fundraising events. Additionally, there may be a legal requirement for foreign charitable organisations to register with the country's regulating authority before operating in that territory.

## SUPPORTING ORGANISATIONS OUTSIDE ENGLAND AND WALES

Charities must ensure that any action overseas falls within the definition of charitable purposes that the charity must fulfil to satisfy the Charity Commission. If a charity wishes to support an organisation in a foreign country it must ensure that any money contributed is controlled so that it is spent exclusively on charitable purposes. This may result in the charity having to specify exactly what the money is spent on, rather than just contributing to a general fund. For example, it would not be considered charitable for money to just be given to a hospital without limitations as to its use, rather it is necessary to specify that the money be spent on a particular new piece of equipment. The contributions must also be shown to satisfy the public benefit requirement set by the Charity Commission.

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<sup>57</sup> [http://www.charitycommission.gov.uk/Charity\\_requirements\\_guidance/Your\\_charitys\\_activities/Working\\_internationally/registering.aspx](http://www.charitycommission.gov.uk/Charity_requirements_guidance/Your_charitys_activities/Working_internationally/registering.aspx)

<sup>58</sup> [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Your\\_charitys\\_activities/Working\\_internationally/information.aspx](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Your_charitys_activities/Working_internationally/information.aspx)

<sup>59</sup> [www.ngoregnet.org](http://www.ngoregnet.org)



## MONEY AND PROPERTY MATTERS

There are a number of specific accounting issues that a charity may need to consider before beginning operations abroad. Specific financial controls may be required to ensure that money is spent on the intended beneficiaries in the foreign country without unnecessary risk to the money. The Charity Commission will require evidence that the registered charity has sufficient controls in place, when dealing with local currency, financial intermediaries and non traditional banking methods.

The Charity Commission sets out a number of considerations for charities that wish to use their money and assets abroad:

- local tax laws;
- local accounting or reporting requirements;
- differing business methods;
- strength of local currency and ease of exchange;
- development of accounting and reporting systems and internal financial controls, taking into account local factors;
- staff training to ensure adequate accounting records;
- local variations of evidencing transactions;
- keeping cash and documents safe; and
- meeting the financial reporting requirements of institutional donors.

## LOCAL PARTNERSHIPS

Combining resources with local organisations on a particular project can be an effective and efficient method of achieving the charitable purposes of both organisations. The Charity Commission provides guidance<sup>60</sup> on issues to consider when selecting the organisation that the charity wishes to form a partnership with. This guidance includes advice on ensuring that the correct partner is chosen to advance the aims of the charity through careful examination of their aims and objectives, the requesting of references, and thorough checks that the partner has the necessary channels to distribute the resources appropriately, so that they reach the final beneficiary. The Charity Commission also recommends requesting that the partner sets out a budget, targets are agreed, local audit procedures are established (bearing in mind what is practical and possible) and

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<sup>60</sup> [http://www.charity-commission.gov.uk/Charity\\_requirements\\_guidance/Your\\_charitys\\_activities/Working\\_internationally/projects.aspx#partner](http://www.charity-commission.gov.uk/Charity_requirements_guidance/Your_charitys_activities/Working_internationally/projects.aspx#partner)

local laws are consulted in relation to partnerships between foreign and local organisations.

The Charity Commission promotes the need to sign a formal agreement, paying particular attention to the following issues, which will help with ensuring that strong financial controls are in place:

- provision of regular donor reports;
- agreement on distribution of funds for specific purposes;
- maintenance of appropriate accounting records;
- right of access at all times to projects / premises;
- timetables and milestones; and
- audit provisions.

#### MONITORING AND REPORTING

Trustees have overall responsibility for how the charity's funds are spent, and to ensure that the funds are being used to meet the charity's objectives. This includes responsibility for how the resources are being used overseas. Therefore it is essential that there is an adequate level of monitoring and reporting so that trustees are aware of how the projects are advancing and how efficiently the resources are being spent.

The Charity Commission have made recommendations about possible monitoring checks, including putting checks in place to limit the authority of delegated local representatives and also as to forms of information feedback. The Commission also appreciates that the situation and environment in which the charity is working may dictate some of the actions that the charity can, or cannot, take. For example, a charity working in a remote part of a less developed country may face difficulties in banking and currency that will force it to take action that may not be advisable in places where more secure banking methods exist. In addition the charity must always ensure that it complies with local reporting requirements.

# STEPS TO REGISTERING A CHARITY

## THE GOVERNING DOCUMENT

A governing document is the formal document which sets up a charity and which should contain information inclusive of the following, as recommended by the Charity Commission:<sup>61</sup>

- what the charity is set up to do (its objects);
- how the charity will function (powers);
- who will run the charity (charity trustees) and prohibition on personal interest;
- provisions covering changes to the administration of the charity;
- accounting and bank account provisions;
- dissolution provisions;
- how the charity will be run; and
- internal administrative procedures.

The governing document is a necessary requirement for the registration of a charity, and it needs to comply with the applicable requirements listed below, as set out by the Charity Commission, to be a suitable governing document for registration. As well as being a legally required document, the governing document acts as a set of instructions for the charity. All of the charity's trustees should be issued with a copy of the governing document once appointed.

## TYPES OF GOVERNING DOCUMENT

There are a number of different types of governing document; the choice of document will reflect what type of organisation the charity will be. The three main types of governing document are:

- Articles of Association<sup>62</sup>

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61 For the Charity Commission's model form, see:  
<http://www.charity-commission.gov.uk/Publications/cc22.aspx#65>

62 For the Charity Commission's model form, see:  
<http://www.charity-commission.gov.uk/Library/guidance/gd1textc.pdf>

- Trust Deed<sup>63</sup>
- Constitution or Rules<sup>64</sup>

The Charity Commission produces its own model documents as templates (as referenced above). These documents provide the administrative provisions suitable for each type of organisation. However, it is still necessary for those using the model documentation to provide details of the charity itself (such as the objects of the organisation) and complete all the spaces left blank by the Commission with details specific to the particular charity. The model documentation does not contain any sample objects wording, although the Charity Commission helpfully provides access to various objects clauses on its webpage entitled “**Index to Example Objects**”<sup>65</sup> and in the range of publications on its webpage entitled “**The Review of the Register of Charities**”.<sup>66</sup> Organisations which decide to make use of the Charity Commission’s own model documentation will find the process less cumbersome, as the administrative provisions have already been agreed.

Some large national charities produce their own approved governing document which can then be used by organisations associated with that charity.<sup>67</sup> The approved documents contain agreed objects and other provisions which are specific to that charity. The procedure for organisations which adopt an approved document is far easier and quicker as the objects and the administrative provisions have already been approved by the Charity Commission. However, organisations using an approved governing document will be required to confirm that they have approached the appropriate national body with regard to use of that document, and that they will operate within the guidelines issued by that body.

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63 For the Charity Commission’s model form, see:

<http://www.charity-commission.gov.uk/Library/guidance/gd2text.pdf>

64 For the Charity Commission’s model form, see:

<http://www.charity-commission.gov.uk/Library/guidance/gd3text.pdf>

65 [http://www.charity-commission.gov.uk/Start\\_up\\_a\\_charity/Guidance\\_on\\_registering/Example\\_objects/exobjhome.aspx](http://www.charity-commission.gov.uk/Start_up_a_charity/Guidance_on_registering/Example_objects/exobjhome.aspx)

66 [http://www.charity-commission.gov.uk/About\\_us/About\\_the\\_Commission/rorpubs.aspx](http://www.charity-commission.gov.uk/About_us/About_the_Commission/rorpubs.aspx)

67 [http://www.charity-commission.gov.uk/Start\\_up\\_a\\_charity/Guidance\\_on\\_registering/govdoclist.aspx](http://www.charity-commission.gov.uk/Start_up_a_charity/Guidance_on_registering/govdoclist.aspx)

## WHICH GOVERNING DOCUMENT IS MOST APPROPRIATE?

### (1) Articles of Association

ISSUE	DESCRIPTION / EXPLANATION
WHAT ORGANISATION IS CREATED?	<p>A Company Limited by Guarantee.</p> <p>A company has an advantage over a trust and an unincorporated association as it is incorporated. This means that the law considers the company to be a legal person, separate from its shareholders and directors, and thus the company can own land and enter into contracts in its own name.</p> <p>The major difference between a charitable company and a company set up for commercial purposes is that charitable companies cannot distribute profits to shareholders as all assets must be used for the charitable purposes for which it is set up.</p>
WHAT ARE THE TRUSTEES CALLED?	<p>The Board, Council of Management or Directors.</p> <p>The directors, in this case, are agents of the company. They are not usually liable for its debts. However, a director may become liable if:</p> <ul style="list-style-type: none"><li>(i) he or she acts in breach of trust or duty to the company; or</li><li>(ii) he or she is responsible for fraudulent or wrongful trading by the company</li></ul>
SHAREHOLDERS OF THE CHARITY?	<p>The company will also have limited liability which means that its shareholders are normally only liable for the debts of the company to the extent to which they have agreed to guarantee such liability in the articles.</p>
LAWS A COMPANY WILL BE SUBJECT TO?	<p>The company will be subject to the law set out in the Companies Act 2006, as well as to charity law.</p> <p>This involves a number of administrative duties, such as an annual filing of accounts with the Registrar of Companies at Companies House. Notification of changes of names of directors and address changes are also required as well as a number of other requirements.</p> <p>Due to the fact that the charity will be subject to company law, legal advice may well be necessary in setting up the company and on an ongoing basis.</p>
WHEN TO USE THIS STRUCTURE?	<p>There are a number of circumstances in which an organisation should use articles of association as a governing document, such as when:</p> <ul style="list-style-type: none"><li>— it will have employees;</li><li>— it will enter into contractual agreements to deliver charitable services and regularly enter into commercial contracts;</li><li>— it will own land / property (freehold, leasehold or other property); and/or</li><li>— the organisation is relatively large.</li></ul>

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68 See [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) for further information on the requirements for registration and the fees applicable.

ISSUE	DESCRIPTION / EXPLANATION
OPERATION OF THE ARTICLES OF ASSOCIATION	<p>The steps that need to be taken to put the articles of association into effect include the following:</p> <ul style="list-style-type: none"> <li>— the company's articles will be attached to the memorandum of association, in which one or more persons will have evidenced their intention to create the company and purchase shares in that new company;</li> <li>— registration of the company with the Registrar of Companies at Companies House;</li> <li>— the Registrar will then issue a certificate of incorporation; and</li> <li>— payment of the fee involved for registration.<sup>68</sup></li> </ul>
DOCUMENTATION REQUIRED FOR REGISTRATION WITH THE CHARITY COMMISSION	<p>Documentation required for registration with the Charity Commission includes:</p> <ul style="list-style-type: none"> <li>— a copy of the articles of association and memorandum of association of the company;</li> <li>— a copy of the certificate of incorporation;</li> <li>— a copy of any special resolution(s) showing amendments to the articles of association after incorporation; and</li> <li>— evidence of income, showing income of at least £5,000 in the first financial year of the entity or a copy of a letter or e-mail from the charity commission agreeing to consider the application.</li> </ul> <p>The application form and the trustee declaration are also required (as when using all other types of governing document): see section entitled "Online Application Process" below.</p>
EXAMPLES OF COMPANIES LIMITED BY GUARANTEE	<ul style="list-style-type: none"> <li>— Terrance Higgins Trust: <a href="http://www.tht.org.uk/aboutus/ourgovernance/">http://www.tht.org.uk/aboutus/ourgovernance/</a></li> <li>— UK Youth Climate Coalition: <a href="http://ukycc.org/memorandum">http://ukycc.org/memorandum</a></li> <li>— Totnes Development Trust: <a href="http://totnesdevelopmenttrust.org.uk/memorandumofasso.html">http://totnesdevelopmenttrust.org.uk/memorandumofasso.html</a></li> <li>— Royal Academy of Music: <a href="http://www.rma.ac.uk/rma/memorandum-of-association.pdf">http://www.rma.ac.uk/rma/memorandum-of-association.pdf</a></li> </ul>

## (2) Trust Deed

ISSUE	DESCRIPTION / EXPLANATION
WHAT ORGANISATION IS CREATED?	<p>A Trust</p> <p>Trust deeds are also known by other names such as declarations, deeds of trust or deeds of settlement.</p> <p>The trust deed will create a trust, which unlike a company (see above) cannot own property or enter into agreements / sign documents in its own name. To undertake such activities, the trust deed should provide for holding or custodian trustees.</p>
WHAT ARE THE TRUSTEES CALLED?	Trustees
LAWS TRUST WILL BE SUBJECT TO?	<p>A trust deed is a formal document and there may be a number of complex interrelated laws which govern how trust deeds operate.</p> <p>It may be necessary to seek legal advice when drafting the original trust deed.</p>
WHEN TO USE THIS STRUCTURE?	<p>A trust deed may be an appropriate governing document where:</p> <ul style="list-style-type: none"> <li>— there is to be no membership involved with the organisation;</li> <li>— the organisation has a relatively simple set up;</li> <li>— land / property is to be held on trust for permanent use for the aims of the charity;</li> <li>— there is a restriction on spending capital;</li> <li>— the organisation is to be a grant-making body only;</li> <li>— there are no time limits on how long the trustees are to be in office; and/or</li> <li>— a relatively small group of people will be running the charity.</li> </ul>
VALIDITY OF THE TRUST DEED	<p>The trust deed has to be signed and dated in the presence of an independent witness, by those who are setting up the trust. The witnesses are required to sign against the signatures of those entering into the trust and also provide their addresses.</p> <p>The trust needs to refer to a specific asset (money or other assets) that will belong to the trust at the time the deed is executed. If this does not happen then the trust will be void and the Charity Commission will not register the trust.</p> <p>The trust deed may also require stamping<sup>69</sup> depending on when it was executed:</p> <ul style="list-style-type: none"> <li>— deeds executed before 2003 require stamping;</li> <li>— deeds executed on or after 2003 but before 13 March 2008 only require stamping if the deed declares a trust over stocks and shares; and</li> <li>— deeds executed on or after 13 March 2008 do not require stamping.</li> </ul>

ISSUE	DESCRIPTION / EXPLANATION
DOCUMENTATION REQUIRED FOR REGISTRATION WITH THE CHARITY COMMISSION	<p>Documentation required for registration includes:</p> <ul style="list-style-type: none"> <li>— a copy of the executed trust deed showing the names of the first charity trustees and the witnesses to their signatures;</li> <li>— a copy of supplemental deeds or deeds of variation showing subsequent amendments to the trust deed; and</li> <li>— evidence of the required annual level of income (£5,000) or evidence of correspondence from the Commission agreeing to consider the application.</li> </ul> <p>The application form and the trustee declaration are also required.</p>
EXAMPLES OF TRUSTS	<ul style="list-style-type: none"> <li>— The Carnegie Trust: <a href="http://www.carnegieuktrust.org.uk/who-we-are">http://www.carnegieuktrust.org.uk/who-we-are</a></li> <li>— The Hilden Charitable Fund: <a href="http://www.hildencharitablefund.org.uk/about.htm">http://www.hildencharitablefund.org.uk/about.htm</a></li> <li>— The Eleanor Rathbone Trust: <a href="http://eleanorrathbonetrust.org.uk/">http://eleanorrathbonetrust.org.uk/</a></li> <li>— The Taylor Family Foundation: <a href="http://www.thetaylorfamilyfoundation.co.uk/">http://www.thetaylorfamilyfoundation.co.uk/</a></li> </ul>

### (3) Constitution

ISSUE	DESCRIPTION / EXPLANATION
WHAT ORGANISATION IS CREATED?	<p>An Unincorporated Association</p> <p>The 'association' means that the organisation consists of a group of people who co-operate within the organisation to achieve its aims and have administrative roles to play.</p> <p>It is 'unincorporated' because it is not a company and so will not:</p> <ul style="list-style-type: none"> <li>— have a separate legal personality or limited liability (the charity's trustees may be liable for all the charity's debts); nor</li> <li>— be able to own land and investments in its own name.</li> </ul>
WHAT ARE THE TRUSTEES CALLED?	Executive or Management Committee Members
LAWS AN UNINCORPORATED ASSOCIATION WILL BE SUBJECT TO	Unincorporated associations are subject to certain rules arising from trust law; the constitution is a less complex document than an articles of association or a trust deed but may still require legal advice in drafting.

69 If the trust deed requires stamping it should then be sent to HM Revenue and Customs, Birmingham Stamp Office, City Centre House, 30 Union Street, Birmingham, B2 4AR. See [www.hmrc.co.uk](http://www.hmrc.co.uk) for further information, or call **0845 603 0135**.



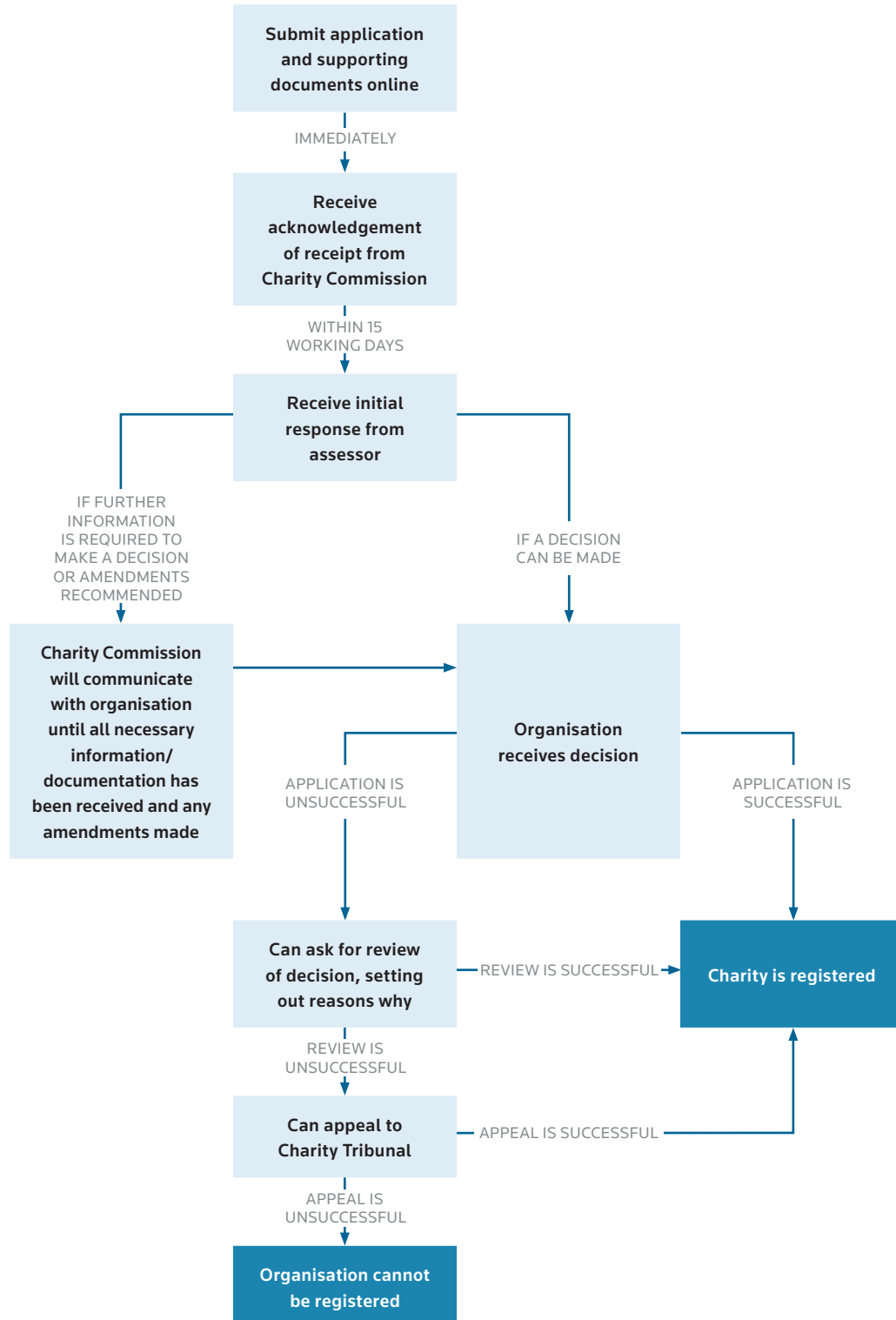
ISSUE	DESCRIPTION / EXPLANATION
WHEN TO USE THIS STRUCTURE?	<p>A constitution may be an appropriate governing document where:</p> <ul style="list-style-type: none"> <li>— the organisation will not have many assets;</li> <li>— the organisation has a membership;</li> <li>— the organisation is to be a local branch of a national charity and a standard constitution already exists for branches;</li> <li>— trustees are appointed to hold office for a fixed period;</li> <li>— trustees are elected by members; and/or</li> <li>— the objects of the organisation are to be carried out by its members.</li> </ul>
HOW IS THE CONSTITUTION PUT INTO OPERATION?	<p>Usually a formal meeting of those who are, or will be, trustees is arranged whereby a final version of the constitution is produced which must be signed by all the charity trustees and dated the day of the meeting at which it was agreed. Also a note that the constitution was adopted should be taken down in the minutes of that meeting.</p>
DOCUMENTATION REQUIRED FOR REGISTRATION WITH THE CHARITY COMMISSION	<p>Documentation required for registration includes:</p> <ul style="list-style-type: none"> <li>— a copy of the current constitution;</li> <li>— confirmation from one of the trustees of the date on which the constitution was signed (adopted) as set out above;</li> <li>— if the Charity Commission requested that the organisation revise its constitution before being accepted, then the organisation should provide a revised constitution showing all the changes (or a copy of the original constitution plus the resolution making the changes) and a confirmation of the date of the meeting of members to approve such changes; and</li> <li>— evidence of the required level of income (as set out above) or evidence of correspondence from the Commission agreeing to consider the application.</li> </ul> <p>The application form and the trustee declaration are also required.</p>
EXAMPLES OF UNINCORPORATED ASSOCIATIONS	<ul style="list-style-type: none"> <li>— Various types of members' clubs and societies</li> <li>— Investment clubs</li> <li>— Thrift funds and Christmas or holiday clubs</li> <li>— Religious communities</li> </ul>

There is also the Charity Commission's model small charity constitution<sup>70</sup>, which may be used in circumstances where the organisation's annual gross income will remain under £5,000 and thus it will not need to register with the Commission.

<sup>70</sup> [http://www.charity-commission.gov.uk/Start\\_up\\_a\\_charity/Do\\_I\\_need\\_to\\_register/Resources\\_for\\_very\\_small\\_charities.aspx](http://www.charity-commission.gov.uk/Start_up_a_charity/Do_I_need_to_register/Resources_for_very_small_charities.aspx)



## FLOW DIAGRAM REPRESENTING REGISTRATION APPLICATION AND DECISION PROCESS





## ONLINE APPLICATION PROCESS

If the organisation feels that it fulfils the criteria that the Charity Commission imposes to register as a charity, then it should use the online application service, found on the Charity Commission website,<sup>71</sup> to apply for registration. The online system speeds up the application and provides a step by step user-friendly guide to registration.

The application should be submitted once the governing document has been formally adopted by the organisation. The Charity Commission will, with few exceptions, not consider the registration of an organisation which has not formally adopted its governing documentation.<sup>72</sup>

### Documents to be submitted with the online application

The Charity Commission requires a number of documents to be sent to it, to help it determine if the organisation complies with the requirements of registration:

- a completed application form;
- a signed trustee declaration form, setting out the full names, addresses and dates of birth of all trustees;
- a copy of the governing document; and
- evidence of income or a letter from the Charity Commission stating that the income threshold does not apply.

Additionally, if the charity works with vulnerable beneficiaries such as children then the trustees must confirm in the declaration that they have complied with the recommended checks of the Criminal Records Bureau or other relevant agency.

## DECISION PROCESS OF THE CHARITY COMMISSION

Once the Charity Commission receives an application for registration it will apply charity law and its requirements for registration to check whether the organisation should be registered as a charity. This will include:

- checking that the objects are capable of being charitable;
- checking that the activities of the organisation are capable of furthering the charitable purpose;

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<sup>71</sup> The online application service can be found at  
<https://www.charitycommission.gov.uk/officeforms/OLARPortal.ofml>

<sup>72</sup> The exceptions to this rule are that the Charity Commission may accept a draft governing document if the charity relates to a disaster appeal which is to be launched within a short space of time, the charity acts on the fringes of charity law and seeks the views of the Commission on its charitable status, or where an incorporated charity wishes to use a sensitive word, such as charity or charitable, in its name.

- checking that the organisation demonstrates sufficient public benefit; and
- checking that the organisation is eligible to be registered and is not exempt or excepted from registration.

This decision will be based on the information that is supplied to the Charity Commission from the organisation.

**(a) Giving advice and guidance to charities**

One of the key functions of the Charity Commission is to encourage and develop better means of administration of charities. Therefore the Charity Commission often uses the registration process to give advice to prospective charities on governance and good practice. This may involve making recommendations of changes to the governing document, even if the changes would not affect the charitable status of the organisation.

**(b) Actions once application has been received**

After submitting their full application (consisting of the application form, trustee declaration and additional supporting documentation), the applicants will receive an acknowledgement to confirm receipt of the documentation. If the application has been submitted online, then this will have been automatically generated stating the name of the officer who will be assessing the application.

An initial response will then be made to the application by the assessor within a target of 15 working days, after which period, if appropriate, the assessor will be able to approve the application and provide the organisation with the registration number.

It is possible that the Charity Commission will need to ask further questions to the organisation, whether to confirm its eligibility for charitable status or to help provide advice about good administration practices. In these circumstances, the organisation will be provided with a name and reference number to use in communications with the Charity Commission. If changes are required to be made to the wording of the charitable objectives, then this will be recommended at this stage first, instead of the application being simply rejected.

After all the information required by the Commission has been received then it will make its decision on whether the organisation is capable of being registered on the Register of Charities.

**(c) Appealing an unsuccessful application**

If the application is unsuccessful, then the Charity Commission will notify the organisation and explain why this decision has been made. It is possible for the organisation to ask for a review of this decision, by setting out in writing the reasons why it believes it is charitable. Once this has been received, the Charity Commission will review the decision.

Even if after the review the Commission still rules that the organisation cannot be registered, then the organisation has a further right of appeal to the Charity Tribunal.

**(d) Date of Registration**

The date of registration will be the date that the Charity Commission enters the organisation in the Register of Charities. However, as charitable status does not depend on registration, HMRC may be able to backdate the tax exemption to the date on which the organisation commenced its exclusively charitable aims, even if this is before registration.





# APPENDIX 1 —

## INDEX OF ACRONYMS

CAPITAL GAINS TAX	A tax on the gain or profit you make when you sell or dispose of an asset.
CASC	Community Amateur Sports Clubs
CHARITIES ACT 2006	An Act of Parliament governing the legal framework under which charities operate.
CHARITY COMMISSION	An independent government body that is the regulator of the administration and affairs of charities registered in the UK.
CORPORATION TAX	A tax on the taxable profits of limited companies and other organisations including clubs, societies, associations and other unincorporated bodies.
FIDUCIARY	A person holding assets for the benefit of another, or with the power to act for another person, who has a duty to act in good faith in the interests of the other person.
GIFT AID	A way for charities to increase the value of monetary gifts from UK taxpayers by claiming back the basic tax rate paid by the donor.
HMRC	Her Majesty's Revenue and Customs
HR	Human Resources
INCOME TAX	A tax on the income of individuals and certain businesses.
INHERITANCE TAX	A tax usually paid on an estate when somebody dies.
REGISTER OF CHARITIES	A list of all registered charities in England and Wales.
SOFA	Statement of Financial Activities
SORP	Statement of Recommended Practice which provides recommendations for accounting and reporting, aiming to provide consistency of accounting treatment within a particular sector.
STAMP DUTY	A tax that applies to purchases of land or shares. Forms of stamp duty include Stamp Duty Land Tax and Stamp Duty Reserve Tax.
TAR	Trustees' Annual Report
VAT	Value Added Tax – a tax that is charged on most goods and services that are provided by VAT – registered businesses in the UK.





**FRONT COVER PHOTO** A racer  
reads the newspaper before the  
racing starts on the fourth day of  
Royal Ascot. REUTERS / Eddie Keogh



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