

# Charity registration

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

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## What is a charity?

A charity is an organisation which:

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

It is often assumed that if an organisation is 'not-for-profit' (i.e. it reinvests any money it makes back into the organisation) it must be a charity. Although charities cannot be profit-making, this is not what defines a charity. Some not-for-profit organisations are not charities. See our information sheet *Legal structures for community groups and not-for-profit organisations* for more information on organisational structures.

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

## Charitable purpose

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

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

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

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

## Charitable objects

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

If you want your organisation to be a charity, the objects in your governing document must be charitable. If you want to register an existing organisation with the Charity Commission, you might need to change the objects in your governing document to make them charitable. When you apply to register a charity, the Charity Commission will look carefully at your constitution or other governing document to determine whether the objects of your group are exclusively charitable.

If your objects clauses allow your group to do something which the law does not recognise as charitable, your group will not be considered a charity, even if your main objects are charitable.

The Charity Commission provides examples of charitable objects on its website that you may wish to use<sup>1</sup>. If one of the examples describes the aims of your own charity, you can copy it into your constitution. If you copy it without alteration, the Charity Commission will accept that your group has charitable purpose.

You may also find it helpful to use the Charity Commission Register of Charities<sup>2</sup> to look at the objects of charities similar to your own.

## Political objects and political activities

A charity is not allowed to have directly political objects, but it can engage in political activities if they help support its charitable objects. For example, charities can campaign for changes to the law, or for existing laws to be upheld, if this supports their charitable objects.

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

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

Further details are available from the Charity Commission in *Campaigning and political activity guidance for charities (CC9)*<sup>3</sup>.

## Public benefit

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

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

For more information about public benefit, see *Public benefit rules for charities* on the Charity Commission website<sup>4</sup>.

## Legal structures for charities

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

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

<sup>1</sup> [gov.uk/government/publications/example-charitable-objects](http://gov.uk/government/publications/example-charitable-objects)

<sup>2</sup> [apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/registerhomepage.aspx](http://apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/registerhomepage.aspx)

<sup>3</sup> [gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9](http://gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9)

<sup>4</sup> [gov.uk/guidance/public-benefit-rules-for-charities#about-public-benefit](http://gov.uk/guidance/public-benefit-rules-for-charities#about-public-benefit)

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

## Unincorporated association

An unincorporated association is a membership organisation. It can be whatever its members want it to be, and carry out whatever activity you choose. It is the easiest, quickest and cheapest way for a group to set itself up – you just need to write and adopt a constitution. If your unincorporated association has charitable aims and exists for the public benefit, it is a charity, and must register with the Charity Commission if its income is over £5,000 per year. An unincorporated association cannot enter into contracts or own property in its own right – its committee members are personally responsible for its liabilities.

## Charitable trust

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

## Charitable Incorporated Organisation (CIO)

A Charitable Incorporated Organisation (CIO) can be a membership organisation (like an unincorporated association) or be governed by a small group (like a trust). It has its own legal existence, which means it can enter into contracts and have debts and obligations in its own right. It must register with the Charity Commission as soon as it is set up – a CIO does not officially exist until it is registered.

## Charitable company

A charitable company is a limited company with charitable aims. It has its own legal existence, which means it can enter into contracts and have debts and obligations in its own right. It must be registered with Companies House (in order to become a company), and then must also register with the Charity Commission if its income is over £5,000.

## Community Benefit Society

A Community Benefit Society is owned by its members, who hold shares and control the organisation on a one-member one-vote basis. It must benefit the wider community (not just its members). It is one of the few types of charity that is not regulated by the Charity Commission – if it has charitable aims it should register with the Financial Conduct Authority<sup>5</sup>.

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<sup>5</sup> [www.fca.org.uk](http://www.fca.org.uk)

# Which charities must register with the Charity Commission?

Although the majority of charities are required to register with the Charity Commission (see below for more details), there are no financial penalties for not being registered. You therefore have some room to ensure that you register at a time which best fits with your group's development. It can take some time for a small charity to adopt a constitution which will satisfy the Charity Commission and develop a good book-keeping system. (See our information sheets *The Treasurer's Role* and *Your group's money* for more help with this).

## Charitable Incorporated Organisations (CIOs)

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

## Unincorporated charities, charitable trusts and charitable companies

In England and Wales, every charitable unincorporated association, charitable trust and charitable company with a gross annual income of £5,000 or more must register with the Charity Commission.

Once a charity reaches this threshold, it should register in the following financial year. Once you are registered as a charity, if your income falls below £5,000, you will remain on the register.

If your charity's income is below £5,000, you cannot register with the Charity Commission. However, an unregistered unincorporated charity below the £5,000 threshold can benefit from tax relief by registering with HM Revenue and Customs (HMRC)<sup>6</sup>.

## Other charities

A few types of charity are regulated by different organisations instead of the Charity Commission. This includes Community Benefit Societies, who should register with the Financial Conduct Authority instead. Churches and Scout groups are also regulated separately.

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<sup>6</sup> [gov.uk/charities-and-tax/get-recognition](http://gov.uk/charities-and-tax/get-recognition)

# Advantages of being a registered charity

- ♦ It can be easier to obtain grants. Many funders give grants only to registered charities.
- ♦ Registration lets the public know that your group is a legitimate organisation and is being monitored by the Charity Commission.
- ♦ You are entitled to tax relief on several taxes and reduced business rates on your premises, and you may reclaim the tax on donations from individuals through Gift Aid.

## Obligations of a registered charity

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

## How to register with the Charity Commission

To register your organisation with the Charity Commission you must complete an online registration form<sup>7</sup>. If you provide all the information and documents required, and answer all the questions clearly, the Charity Commission state that they will complete the process within 30 days.

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

### A copy of your governing document

The Charity Commission produces model governing documents for different legal structures<sup>8</sup>, which you can fill in with details of your own charity. Using a model governing document and wording from the Charity Commission's example objects will speed up and simplify the application process.

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<sup>7</sup> [gov.uk/guidance/how-to-register-your-charity-cc21b](http://gov.uk/guidance/how-to-register-your-charity-cc21b)

<sup>8</sup> [gov.uk/government/publications/setting-up-a-charity-model-governing-documents](http://gov.uk/government/publications/setting-up-a-charity-model-governing-documents)

If your group has its own governing document, it is essential that it takes account of all the points in the relevant model even if it does not follow the exact format or wording. For more information see the Charity Commission guidance *How to write your charity's governing document (CC22b)*<sup>9</sup>.

## Trustee Declaration

All your committee members must sign a declaration to say they are eligible to act as charity trustees<sup>10</sup>.

People with unspent criminal convictions relating to fraud, terrorism or sexual offences are not allowed to act as charity trustees. You must also not have an IVA, debt relief order and/or a bankruptcy order, and not have been disqualified as a company director or removed as a charity trustee in the past. A full list of disqualifications<sup>11</sup> is available on the Charity Commission website.

## Financial information

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

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

## Other information requested by the Charity Commission

You will also need to provide the following information:

- ♦ how your organisation's purposes are for public benefit
- ♦ what you do to ensure you achieve your purposes
- ♦ where your organisation operates
- ♦ contact details
- ♦ any benefits the trustees will receive
- ♦ action you have taken to ensure you meet safeguarding requirements if you work with children or vulnerable adults

The Charity Commission guidance *Registering as a charity (CC21)* provides details on all the preparation you will need to do before registering<sup>12</sup>.

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<sup>9</sup> [gov.uk/guidance/how-to-write-your-charity-s-governing-document](https://www.gov.uk/guidance/how-to-write-your-charity-s-governing-document)

<sup>10</sup> [gov.uk/government/publications/confirmation-of-charity-trustee-eligibility](https://www.gov.uk/government/publications/confirmation-of-charity-trustee-eligibility)

<sup>11</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/731084/010818\\_Disqualification\\_Reasons\\_Table\\_v2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731084/010818_Disqualification_Reasons_Table_v2.pdf)

<sup>12</sup> [gov.uk/how-to-set-up-a-charity-cc21a](https://www.gov.uk/how-to-set-up-a-charity-cc21a)

## Further information from the Resource Centre

Please note this sheet is by the Resource Centre, an independent charity. For more information about the Charity Commission, please refer to the Charity Commission website<sup>13</sup>.

You may also find the following Resource Centre information sheets useful:

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

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<sup>13</sup> [gov.uk/government/organisations/charity-commission](http://gov.uk/government/organisations/charity-commission)