



Charities

A charity is an organisation whose purpose and aim fall into categories that the law determines to be charitable, for example assisting vulnerable people, advancing arts, culture or science.



A charity's purpose must be exclusively for public benefit and available to all – although it can be bound by geography or everyone with a specific characteristic, such as dementia.

Being exclusively for public benefit restricts charities in that they cannot distribute profits to members/guarantors or trustees, all monies must be used towards achieving the charity's aims and purpose (these are also known as the charities objects).

Each charity has nominated trustees, who run the charity, but due to strict rules around trustee's benefitting from charities, the role of a trustee must be unpaid, except in specific circumstances.

It is best practice to have two or more trustees, of which at least one should be external to the operations of the charity to mitigate any conflict risks and obtain sufficient skills and experience required to run the charity.

Structures

A charity is governed by the Charity Commission which keeps a register of charities and regulates charities to ensure they comply with the Charities Act 2016.

There are various structures that need to be considered to set-up a charity, as set out below:

Charitable Company

All incorporated charities registered at Companies House must be limited by guarantee. Being a private company limited by guarantee means that the trustees have limited liability for the charitable company's debts.

A charitable company must follow rules under Companies Act 2016 (regulated by Companies House), as well as Charities Act 2016 (regulated by Charity Commission).

Companies House can list charges on the register, so if you intend to take on debt this is the preferred route.

Charities don't pay tax on most types of income as long as they use the money for charitable purposes.

Charitable Incorporated Organisation (CIO)

This is a company registered with Charity Commission, but it does not need to register with Companies House.

The trustees have limited liability for the company's liabilities reducing their exposure.

Unincorporated charitable organisation

Largely used for a group of volunteers to run a charity for a common purpose, e.g. sports associations.

These type of organisation cannot employ staff or have their own premises

Charitable Trust

This is the preferred route for groups of people managing assets, such as money, investments, land or buildings.

How to register as a Charity

Charities are highly governed and you will require many governance documents and policies to be compliant.

All Charitable incorporated organisation and charitable companies must register with the Charity Commission.

Although there are a few exceptions, the general rule is that if an unincorporated charity's annual income is over £5,000 they must register with the commission. With less than £5,000 of income, a charity can still get charitable status from HMRC, without formally registering with the Charity Commission. To register as a charity, the Commission will expect the following documents: -

1. Charity Governing documents (essentially a 'rulebook') covering the following points

- a. The charity's purpose and activities of how it will carry out the purpose
 - b. How to run the charity
 - c. How trustees are appointed
 - d. Rules about trustee's expenses
 - e. Rules about payments to trustees, investments, etc.
 - f. Safeguarding and conflict policies and procedures
 - g. How to close the charity
2. Memorandum and Articles, if the charity is a company
 3. Must have a bank account for the charity
 4. Proof that the charity's income exceeds £5,000, if relevant

Registered charities must prepare annual reports for the Charity Commission and some may still have to prepare tax returns for HMRC.

Charities and HMRC

A charity must carry out charitable activities.

Should a charity carry out non-charitable activities as well, tax and VAT may be due on those activities.

An entity with charitable status from the charity commission or HMRC can register for the Gift Aid Scheme.

Gift aid is a scheme enabling registered charities to reclaim tax on a donation made by a UK taxpayer, claiming an extra 25p for every £1 donated.

Audit and Independent Examination requirements

A charities governing documents may require it to have an audit or a charity may need an audit or independent examination by virtue of its size.

An independent examination is needed if gross income is between £25,000 and £1 million and an audit is needed where the gross income exceeds £1 million. An audit will also be needed if total assets (before liabilities) exceed £3.26 million, and the charity's gross income is more than £250,000.

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