

Charity Registration

group action pack

Introduction

If your group is unsure whether you should register with the Charity Commission (the regulator for charities in England and Wales) this guide aims to let you know what is involved and give you the basic information you need to begin the process.

Although every effort has been made to ensure this guide is accurate, the Charities Act 2006 made many changes to charity law and these are being put into action in stages throughout 2007 and 2008. The most significant new developments have been highlighted in this guide but full information about all the changes can be found on the Charity Commission website at:

<http://www.charity-commission.gov.uk/spr/ca2006prov.asp> .

What is a charity?

If an organisation (such as a parent support group) exists exclusively for charitable purposes (i.e. for the benefit of others), it is considered to be a charity. Currently, charitable purposes are defined as:

- The relief of financial hardship
- The advancement of education
- The advancement of religion
- Certain other charitable purposes for the benefit of the community (like offering support to families of children with disabilities, specific conditions and special needs).

contact a family
for families with disabled children

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incorporating
The Lady Hoare Trust

From early 2008, two significant changes will be made:

- **The four charitable purposes listed on page 1 will be replaced by 13 new headings which better reflect the activities of today's voluntary sector.**

More information about the new headings can be found on the Charity Commission website at:

<http://www.charity-commission.gov.uk/spr/corcom1.asp> .

- **Every charity will have to prove that it exists for the public benefit, as well as for a charitable purpose.**

The Charity Commission has just finished a consultation on how best to assess whether charities exist for the public benefit. They hope to publish guidance on this in October 2007. In the meantime, groups can find more information at:

<http://www.charity-commission.gov.uk/news/pbnewsindex.asp> .

Even if you are a small group, and do not think of yourselves as a charity, you will still be charitable in the eyes of the law if you have charitable purposes. Registering with the Charity Commission does not turn an uncharitable group or organisation into a charity; it makes an **existing** charity a **registered** charity. Charities fall under the jurisdiction of the Charity Commission whether they are registered or not and should still abide by charity law. All community and voluntary groups have an obligation:

- to abide by the terms set out in their constitution (or other governing document);
- to be run responsibly and well managed;
- to act within the law.

When must a group register with the Charity Commission?

If your group has a charitable purpose and an annual income of £5,000 or more then you need to go ahead and become a registered charity.

If your group's income is below this threshold, the Charity Commission will not usually register you. However, under changes brought in by the Charities Act 2006, small charities will eventually have the right to register voluntarily. This right has not yet come into force and is unlikely to happen before 2009. The Charity Commission recognises that some charities may have a particular need to be registered, so in the meantime, they will consider requests from these charities on a case by case basis.

Even if your group is obliged to register, there is no deadline for doing so and no financial penalties for not being registered. This allows you to choose to register when it best fits in with your group's development and gives you the opportunity to get everything you will need in place.

Advantages of registration

- Many charitable trusts and foundations, as well as some businesses and corporations, will only give to registered charities.
- The public perceives registered charities as being more credible than organisations which are not registered. This may raise the public's confidence in your group, help you attract more volunteers and assist you in fundraising.
- Relief from some taxes including: income tax (where the income is derived from investments like property, shares, and securities and is applied for charitable purposes); capital gains tax, stamp duty and VAT concessions.
- Your group will become eligible for schemes such as Gift Aid and payroll giving (GAYE). Both of these schemes will enable your group to claim the tax on donations from tax payers. The value of such schemes varies with income tax rates.

Obligations of registration

- Once registered, your group will be required to complete more paperwork. You will need to send annual updates to the Charity Commission and let them know about any changes to trustees and your group's contact details. If your group has an income of £10,000 or more, you will also have to send a copy of your accounts and a Trustee's Annual Report.
- Your group will be required to hold an Annual General Meeting (AGM).
- You must let the Charity Commission know if you wish to make any changes to your constitution.

- Any headed notepaper or publicity your group produces must have your charity registration number on it.
- Charity trustees cannot be paid or receive any financial benefits from the charity they manage, they can only receive out of pocket expenses. However, the Charities Act 2006 allows trustees to be paid for providing an **additional** service to the charity if it is considered that this is in the charity's best interests. So, if one of your trustee's was a website designer, they could be paid to develop your group's website, as long as the other trustees agreed that this was in your group's best interests, for example, because the trustee was charging a better price.
- Trustees are responsible for the good management of the charity. A trustee can be held personally liable for any debts and losses a charity faces as a result of mistakes they have made. However, if a trustee makes an honest mistake and has acted reasonably, they can apply to the Charity Commission (as well as the courts) for relief from personal liability. It is rare for any personal liability to be enforced unless a trustee has acted recklessly and dishonestly.

For more information, visit the Charity Commission website and take a look at the following information guides:

CC3 - The Essential Trustee: what you need to know

<http://www.charitycommission.gov.uk/publications/cc3.asp>

CC3(a) - The Essential Trustee: An introduction

<http://www.charitycommission.gov.uk/publications/cc3a.asp>

It is possible to buy an insurance policy which prevents trustees having to personally pay out for any claims made against them – this is called **trustee indemnity insurance**. The Charities Act 2006 allows trustees to purchase this insurance with the charity's funds without seeking permission from the Charity Commission (as used to be the case). However, trustees can only do this as long as there is no clause in the charity's constitution forbidding it.

- The Charity Commission will not register charities who work with children unless they can provide evidence that all their trustees have had a Criminal Records Bureau (CRB) check. Any new trustees must also have a CRB check and the annual return form that is sent to every registered charity specifically asks whether this has been done.

For more information about this requirement and how to comply, visit the Charity Commission website at:

<http://www.charity-commission.gov.uk/registration/crb.asp#3> .

- Your group's aims (also known as 'objects') must be exclusively charitable. This means that strict rules apply to trading and there are limits to the amount of political or campaigning activities you can take part in.

What does your group need to do before registration?

Select your trustees

Prior to registering as a charity you will need to select a board of trustees. These are the people who are responsible for applying the constitution in order to manage your group. In some organisations trustees may be called committee members, governors, directors or some other title. You do not need a huge number of trustees but should have a Chair, Secretary and Treasurer. Remember that other members can be actively involved in running the group without being a trustee. Keeping the number small will help in maintaining good communication and in organising and paying for trustee meetings. For more information see the Contact a Family Group Action Pack guide, '**Trustees**'.

Draw up a constitution

Part of the application process is the formal adoption by your group of a constitution; this is sometimes called a governing document. A constitution sets out the aims and objectives of your group, the structure, and the rules which will control how you are run. It is a wide ranging document covering all the workings of your group including who can become a member, how many trustees there should be and procedures for meetings and voting.

Use of the Contact a Family draft constitution

Contact a Family has agreed a draft constitution written for national condition specific support groups. This means the objects, powers and procedures are already written and the wording has been agreed by the Charity Commission. This can be used by groups and should make the registration process simpler and quicker.

For further information about this contact Louise Derbyshire, on 020 7608 8715 or email louise.derbyshire@cafamily.org.uk .

Since obtaining the draft constitution for national condition specific support groups, we have learnt that the Charity Commission will no longer agree the wording for these documents in isolation, and will only comment on constitutions as part of a full charity registration application. Unfortunately, this means we are unable to develop an **agreed** document for local parent support groups to use. We do have a draft constitution for local groups to use as a guide and adapt however - to obtain a copy, contact your local Contact a Family office.

The Charity Commission also has some model constitutions available through its website.

Copies are available at:

<http://www.charitycommission.gov.uk/registration/mgds.asp> .

Once your committee has drawn up the constitution and agreed the finer details, it will need to be 'adopted' at a committee meeting. This must be recorded in the minutes which will form part of the paperwork needed by the Charity Commission.

The next step is to write to the membership of your group, informing them of the plan to register as a charity and asking for their approval. You will need to let them know that copies of the constitution are available for them. When writing, many groups add a clause stating that failure to acknowledge the letter will be taken as indication of agreement to go ahead with registration.

How to apply for registration

The Charity Commission provides an application pack which includes an application form, notes and a trustees' declaration form.

You will need to send the Charity Commission:

- Your completed application form.
- Your group's agreed constitution.
- The Trustee Declaration form signed by all of your committee members declaring that they are willing to act as charity trustees.
- A copy of your group's accounts for the past three years (if these are available), or other financial information if you are a new group.
- Minutes of the committee meeting at which your constitution was adopted.
- Where appropriate, a copy of your group's Child Protection Policy and copies of your Trustees' CRB disclosures.
- Background information about your group (like leaflets, newsletters and other publications).

If your group's application has been successful, you should hear from the Charity Commission within 3 weeks. The process can take much longer if they require more information from you. If your application for registration is turned down, the Charity Commission will explain in writing why this is case and you have the right to appeal the decision.

What happens once your group has registered?

Once you have registered as a charity you will need to make sure that you meet the requirements of the Charity Commission. You will have to provide more information to the Charity Commission as your group's income increases. After registration the Charity

Commission will write to your trustees to set out the requirements. For more information, see the section on 'What Happens after Registration' in the Charity Commission publication CC21 - Registering a Charity (for details, see page 8).

If your group applies for registration please keep Contact a Family informed of your progress, in particular do let us know your charity registration number when you receive it. Don't forget that you can also contact us for more information and support throughout the registration process – call our Helpline on 0808 808 3555 to be put in touch with one of our Group Development Officers.

Good luck with your application!

Further information about charity registration

England and Wales

In England and Wales the regulation and registration of charities is carried out by the **Charity Commission**. Their contact details are:

Telephone: 0845 300 0218
Minicom: 0845 300 0219
Address: Charity Commission Direct, PO Box 1227, Liverpool, L69 3UG.
Website: <http://www.charity-commission.gov.uk>

A useful publication is:

CC21 Registering a Charity

<http://www.charity-commission.gov.uk/publications/cc21.asp> .

If you do not have internet access, phone the Charity Commission for a free copy of this booklet.

Other useful guidance on registration is also available on their website at:

<http://www.charity-commission.gov.uk/registration/CCREG.asp> .

Scotland

Groups in Scotland should contact the **Office of the Scottish Charity Regulator**:

Telephone: 01382 220 446
Email: info@oscr.org.uk
Address: 2nd Floor, Quadrant House, 9 Riverside Drive, Dundee,
DD1 4NY.
Website: <http://www.oscr.org.uk>

Northern Ireland

Groups in Northern Ireland should contact the **Department for Social Development**:

Telephone: 028 908 29414
Email: vcu@dsdni.gov.uk

Address: Charities Branch - Voluntary and Community Unit, 3rd Floor,
Lighthouse Building, 1 Cromac Place, Gasworks Business
Park, Ormeau Road, Belfast, BT7 2JB.

Website: http://www.dsdni.gov.uk/charities_advice

Other useful organisations and guidance

Local Infrastructure Organisations

Local Infrastructure Organisations (like Councils for Voluntary Action or Councils for Voluntary Service) can offer information and advice on charity registration to voluntary and community groups.

To find your nearest local infrastructure organisation contact NAVCA (the National Association for Voluntary and Community Action):

Telephone: 0114 278 6636

Email: navca@navca.org.uk

Website <http://www.navca.org.uk>

Address: The Tower, 2 Furnival Square, Sheffield, S1 4QL

The Governance Hub

The Governance Hub provides support for good governance in the voluntary and community sector in England. They produce a range of information and resources for trustees, chairs and management committees.

Helpline number: 0800 652 4886

Email: governance.hub@ncvo-vol.org.uk

Website: <http://www.governancehub.org.uk>

Address: The Governance Hub, NCVO, Regent's Wharf, 8 All Saints Street,
London, N1 9RL.

Charities Act 2006 – what Trustees need to know

This plain English guide has been written by the Cabinet Office and Charity Commission. The guide is primarily aimed at trustees running small charities; it explains the main provisions of the Charities Act and how to make the most of the new developments.

The guide can be downloaded from the Cabinet Office website at:

<http://tinyurl.com/2mwoht> .

This guide is part of the Contact a Family Group Action Pack. For more information please visit www.cafamily.org.uk or telephone 020 7608 8700.

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