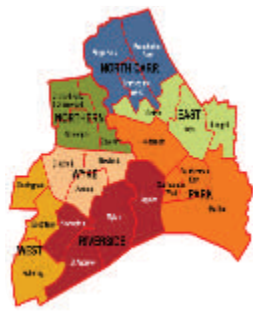


Setting up a Charity Frequently Asked Questions



Hull CVS
'community and voluntary services'



What is a Charity?

Put simply, a Charity is an organisation that exists for public benefit and which has purposes (i.e. aims or objects) which fit one of the legally defined Charitable purposes, i.e:

- 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 disadvantage;
- 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 currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.

helping you make a difference

How do I set up a Charity?

You need at least three people who will be the trustees of the Charity. These must be people who have nothing to gain from their involvement (i.e. they can't be people who will expect to be paid by the Charity, or who expect the Charity to use their property or services for instance).

You need to agree on your objects (sometimes called aims - the purpose of your Charity). This needs careful wording as inclusion of anything that is not legally Charitable will prevent your organisation from being a Charity. Hull CVS can help with this.

You need to choose the appropriate governing document for the Charity (See below). Again, Hull CVS can help with this.

If it is to be a membership Charity, you need to gather up a membership and plan an inaugural meeting to adopt (execute) the Governing Document.

If it is to be a Charitable Company, it will have a Memorandum and Articles of Association, and you will need to register it with Companies House.

Don't Charities have to be registered?

Charities must register with the Charity Commission if they have an annual income of over £5,000.

An organisation with Charitable aims is a Charity whether or not it is a registered. Registration only acknowledges that it is a Charity and gives it a Charity Number. Smaller charitable organisations, and charitable organisations that should be registered but aren't, are still subject to Charity Law.

Excepted or Exempt Charities such as fee paying schools and places of worship will soon be required to register.

Do Charities have to have a Constitution?

Charities must have a Governing Document, which is a document that sets out the arrangements and rules by which the Charity governs itself. There are various different types of Governing Document that a Charity can have. The most common ones are:

- A Constitution
- Memorandum and Articles of Association
- Trust Deed

The reasons why each of these might be appropriate are set out in a Charity Commission booklet *Choosing and Preparing Your Governing Document*. Hull CVS can talk you through the different models and help you choose the right one for your new organisation, or direct you to the appropriate legal advice.



Governing documents must include certain key pieces of information. They are legal documents and must be written properly and followed. Hull CVS can give you the information you need to help you write your governing document.

Who are the Trustees of the Charity?

Anyone who is a member of a management committee or similar decision making body of a Charity is a Trustee of that Charity. It doesn't matter what they are called - some organisations call them Executive Committee or Management Committee for instance - they are still the Trustees of the Charity.

Confusion often arises because Charities with a building or land might also have Custodian or Holding Trustees who own the property on behalf of the Charity.

The Directors of a Charitable Company are also its Trustees.

The responsibilities of Charity Trustees is explained in a Charity Commission booklet CC3 *The Essential Trustee: what you need to know*. Anyone who is a Charity Trustee must understand their responsibilities and take them very seriously.

We are already registered with Companies House Is that enough?

Charitable Companies have to register with the Charity Commission if they have an annual income of over £5,000.

It is not a choice between registering with either Companies House and the Charity Commission. If a Company is charitable, its trustees have a legal duty to register it with the Charity Commission once its income goes above £5,000 a year. (From 2008, a new Charitable Incorporated Organisation is planned to be introduced, so Charities will be able to be incorporated without having to register both with the Charity Commission and with Companies House.)

Does it cost anything to register a Charity?

No, it doesn't cost to register with the Charity Commission. It does cost (£20) to register with Companies House in the case of Charitable Companies, and it might cost if your Charitable Trust is liable to pay Stamp Duty.

There might be other costs, for instance legal fees if you use a solicitor to help you.

Do we have to register with the Inland Revenue?

Charities only need to register with HM Customs and Revenue (the new merged Inland Revenue and HM Customs) if;

Their taxable income from trading meets the threshold (currently £64,000 a year)
They are a small charity or exempted or excepted Charity and don't yet need to register with the Charity Commission but want to claim Gift Aid.

How long does it take?

The Charity Commission undertake to decide whether or not your Charity can register in an average of 87 working days. But it can be much quicker if your proposals are straightforward. If you use the model governing documents published by the Charity Commission, or by the Charity Law Association, and if you use the Charity Commission's suggested wording for your objects and think carefully about how your activities help further your objects, registration should be straightforward. If there are any complications, it might create delays in your registration.

You can register a Charitable Company with Companies House in 24 hours if you can pay £80.

However, the time it takes includes the time you need to spend planning and holding your inaugural meeting (for membership Charities), agreeing and signing (executing) your governing document, and preparing your registration application. This is best not rushed. Spend time finding out what you need to know to get it right. It will save time in the long run.

Can any of our Committee be paid by the Charity?

Trustees can not be paid simply for being trustees. Generally, it is not good practice for a Charity to make payments to its trustees unless there are compelling reasons why it is in the best interests of the charity to do so, and the Charity has good means of managing any conflicts of interest and safeguards to prevent abuse of this power. The Charity Commission issues guidance on paying Trustees, and on Conflicts of Interests.

Why can't we set up a Charity to fundraise for a child we know who is in need?

Charities are for the public benefit. You could set up a Charity to benefit *all children* with the same need as the one you are trying to help. But you cannot set up a Charity to benefit one person or one family or one very tightly defined group of people (such as residents of a single street).

It is also important to understand that fundraising is not a Charitable purpose. So if you set up an organisation and its purpose is to fundraise, you won't be able to register it as a Charity. If instead you set up a Charity with a purpose that is one of those listed on page one of this sheet, fundraising could be the activity it carries out in order to achieve its purpose.

Why can't we register our tenants' group as a Charity?

Charities are for public benefit, and the people involved in the governance of the Charity cannot receive any material benefit. A tenants' group might not be a wide enough group to be considered 'The Public', and won't be Charitable if it just exists to serve the needs of its members, or if the benefits to members are too great. Tenant groups may also have difficulty as they lobby for their tenants interests and charities are not allowed political purposes.



Does our Charity have to have its own Bank Account?

If it has any money, yes the Trustees must be in control of the resources of the Charity, and they cannot effectively control any money the Charity has except by opening a bank account in the Charity's name. They need to have appropriate security measures in place, a minimum of which will be that the account requires two signatures on withdrawal.

Where can we find out more?

Contact Charity Commission Direct
PO Box 1227, Liverpool, L69 3UG
Telephone 0845 3000218, or visit their website:
www.charity-commission.gov.uk

Charities Act 2006: What every Trustee needs to know is a plain English guide to the new Charities Act, which is available from the the Charity Commission's website:
www.charitycommission.gov.uk/About_us/Regulation/charbill.aspx



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