

## Registering as a Charity

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***What is this guidance about?***

We are delighted that you want to play an active part in a charity. This guidance is about some of the issues that you may want to consider if the charity is in England or Wales. It covers:

- whether you need to start a new charity;
- which charities need to register;
- the registration process.

This guidance is available in English and Welsh and on our website: [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

This guidance reflects the definition of ‘charity’ set out in the Charities Act 2006.

***Meaning of words or expressions used***

The following terms are used throughout this guidance, and should be interpreted as having the specific meanings given below:

The **Charities Act** means the Charities Act 1993, as amended by the Charities Act 2006.

**Aims:** in this guidance we use this term to mean the purposes of an individual organisation. It is important to be able to distinguish clearly between an individual organisation's purposes and charitable purposes in general. We have therefore used the term 'aims' as shorthand for the purposes of an individual charity or organisation applying for registration as a charity.

**Beneficiaries** means the people (or in some cases, organisations) which the charity's aims are intended to benefit. The charity's governing document usually explains who the beneficiaries are.

**Breach of trust** means acting in a way which is inconsistent with the powers and duties of the trustee, whether those powers and duties are set out in the charity's governing document, or are part of general law.

**Central Register** means the place, at each of our offices, where you can view the Register.

**Governing document** means any document that sets out a charity's aims and, usually, how it is to be run. It may be a trust deed, constitution, memorandum and articles of association, Scheme of the Commission, Royal Charter, conveyance, will, or other formal document.

**Objects:** an organisation's aims (or purposes) are usually expressed in the 'objects clause' of its governing document. However, not all charities have a governing document with an objects clause, and sometimes the objects clause does not adequately or fully express the organisation's aims. There is therefore a distinction between an organisation's aims and the words that appear in its objects clause.

**Paying** includes not only payment in money, but also benefits in kind, such as free (or subsidised) accommodation or the provision of a car.

**Promoters** are people intending to set up (establish) a charity - if the charity is registered then they may become its first trustees.

**Property** means land, buildings, cash, investments or any other possession, which are owned by the charity.

**Public benefit reporting requirement:** this means the requirement for charity trustees to report in their trustees' Annual Report on their charity's public benefit.

**Statutory guidance on public benefit:** this is the guidance on public benefit that the Charity Commission has produced under section 4 of the Charities Act.

**The Register** means the computerised public Register of Charities in England and Wales, which can be found on our website ([www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)).

**Trustees** means charity trustees. You are a charity trustee if you are:

- the trustee of a charitable trust (charitable trusts can be created by a declaration of trust or by someone's will);
- the director of a charitable company (a charity that is a company with a memorandum and articles of association as the document which sets out how the charity is to be run); or
- a member of the committee which is responsible for running a charitable group such as a community association or a parent teacher association.

As a charity trustee you are responsible for the general control and management of the charity. Because of this you may be known as a 'managing trustee'. There are two other types of trustees that you may hear about or wish to have: 'holding' trustees and 'custodian' trustees. These types of trustees have particular functions, which are described below, and they must always act on the lawful instructions of the managing trustees.

**Custodian trustee** means a corporation (not individuals) whose main function is to hold the legal title to investments and property on behalf of the charity. Custodian trustees can act only on the lawful instruction of the charity or managing trustees. A custodian trustee is a form of holding trustee but it has specific responsibilities as set out in section 4 of the Public Trustee Act 1906: it does not have any powers of management.

**Holding trustee** means a person, corporation or individual who holds legal title to a charity's property on its behalf. The name of the holding trustee is shown on the land register or company stock register as the person holding the legal title to land or shares belonging to the charity. The charity's governing document may confer additional powers and responsibilities on the holding trustee(s), but holding the legal title to the charity's property is usually all they do. Provided that holding trustees act only on the lawful instructions of the managing trustees they will not be held responsible for any action (or lack of action) of the managing trustees.

**Must** or **need** to are used to refer to actions that trustees, or their agents or employees, have to take by law.

Where we use terms such as the trustees **should** or we **suggest**, **recommend** or **advise** we are referring to actions which the trustees, their agents or employees could take and which we consider to be good practice, but which are not legal requirements.

## PART I - STARTING A CHARITY

### *Setting up a new charity*

1. Many people assume that they must set up a new charity if they want to carry out voluntary work. However, this is not always correct. Before setting up a new charity, please read the guidance on our website *Things to think about before starting a charity*. This will help you to evaluate whether starting a new charity is the best way to proceed.

### *What is a charity?*

2. A body is a charity if it:

- is set up under the law of England and Wales (paragraph 61); and
- is established for exclusively charitable purposes only (paragraphs 4-6).

3. In this guidance we refer to an individual charity's purposes as its 'aims'. A charity's aims are usually expressed in the objects clause of its governing document.

### *What are charitable purposes?*

4. 'Charitable purposes' are those that fall within the descriptions of purposes capable of being charitable set out in the Charities Act 2006 and that are for the public benefit. Purposes capable of being charitable include those purposes that the law previously recognised as charitable, as well as new purposes which may be recognised as the law develops.

5. The Charities Act 2006 sets out the following descriptions of purposes:

- a) the prevention or relief of poverty;
- b) the advancement of education;
- c) the advancement of religion;
- d) the advancement of health or the saving of lives;
- e) the advancement of citizenship or community development;
- f) the advancement of the arts, culture, heritage or science;
- g) the advancement of amateur sport;
- h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- i) the advancement of environmental protection or improvement;
- j) the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;

- k) the advancement of animal welfare;
- l) the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services;
- m) other purposes recognised as charitable under the existing law and any new purposes which are similar to another prescribed purpose.

6. Our web guidance *Commentary on the Descriptions of Charitable Purposes in the Charities Act 2006* provides further information about what each of these purposes covers.

### What is meant by 'public benefit'?

7. 'Public benefit' is the legal requirement that every organisation set up for one or more charitable aims must be able to demonstrate that its aims are for the public benefit if it is to be recognised, and registered, as a charity in England and Wales. This is known as 'the public benefit requirement'.

8. The public benefit requirement means that, to be a charity, an organisation must be able to demonstrate that it is set up for aims that are capable of being charitable, and that its aims are, and will be, carried out for the public benefit. It is a requirement that applies to each of an organisation's aims. A charity cannot have some aims that are for the public benefit and some that are not.

9. There are two key principles both of which must be met in order to show that an organisation's aims are for the public benefit. Within each principle there are some important factors that must be considered in all cases. These are:

#### **Principle 1: There must be an identifiable benefit or benefits**

- 1a It must be clear what the benefits are
- 1b The benefits must be related to the aims
- 1c Benefits must be balanced against any detriment or harm

#### **Principle 2: Benefit must be to the public, or a section of the public**

- 2a The beneficiaries must be appropriate to the aims
- 2b Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted:
  - by geographical or other restrictions or
  - by ability to pay any fees charged
- 2c People in poverty must not be excluded from the opportunity to benefit
- 2d Any private benefits must be incidental

10. Under the Charities Act 2006, the Charity Commission is required to issue guidance on public benefit. Our statutory guidance on public benefit is contained in our publication *Charities and Public Benefit*. In addition, we will also be issuing supplementary guidance on the public benefit of specific types of charity.

## *Charity trustees' public benefit duties*

11. Anyone thinking of setting up and registering a new charity should familiarise themselves with our statutory guidance on public benefit.

12. Charity trustees have the following public benefit duties to:

- ensure that they carry out their charity's aims for the public benefit;
- have regard to guidance we publish on public benefit (when they exercise any powers or duties where that may be relevant); and
- report on their charity's public benefit in their Trustees' Annual Report.

13. Anyone applying to register their organisation as a charity needs to be aware that the charity trustees must be aware of, and fulfil, their statutory duties with regard to public benefit and public benefit reporting. The need to meet the public benefit requirement is a continuing duty for charity trustees throughout the life of the charity; it is not just a requirement at registration.

## *Assessing the public benefit or organisations applying to register as charities*

14. When considering whether an organisation's aims are for the public benefit, we may consider its activities in order to:

- clarify what its aims are (ie to understand the meaning and scope of the words used in its objects);
- decide whether those aims are charitable (ie that the aims fall within, or are analogous to, the descriptions of charitable purposes in the Charities Act 2006); and
- ensure that the aims are, will or may be, carried out for the public benefit.

15. In the case of an organisation applying to register as a charity, we can consider relevant factual background information, such as asking for evidence of its activities, or proposed activities, in order to decide whether or not its aims are charitable for the public benefit. Where possible we will use the information an organisation provides on its application form to help us decide if its aims are charitable and are for the public benefit. Where it is not clear that the aims are (and will be carried out for) the public benefit, we will ask the organisation to provide further evidence where necessary. Where we are not satisfied that the public benefit requirement will be met, we may refuse registration, or we may ask the applicant to amend their organisation's objects or activities to ensure it will meet the public benefit requirement before we can proceed with registration.

*Aims which are not for the public benefit*

16. In general, aims are not charitable if they are mainly for the benefit of a named person or specific individuals. They will also not be charitable if the people who will benefit from them are defined by a personal or contractual relationship with each other. For example, if the beneficiaries are related or connected to the person who is setting up the charity, or where they are defined by common employment or by membership of a non-charitable body, for example, members of a professional institute.

17. An exception to this general rule exists in the case of the prevention or relief of poverty, where the people to benefit can come from a more restricted group, such as people having the same employer.

18. No organisation can be charitable if:

- its aims are illegal or could be said to further illegal aims under the law of England and Wales; or
- it is set up for the personal benefit of:
  - its trustees;
  - its employees (other than in the case of relieving poverty - for example, there would normally be no reason why a firm or business should not operate a benevolent fund for its staff limited to the purpose of relieving poverty); or
  - other specific individuals; or
- it is created for political aims.

*Some non-charitable aims which are often presumed to be charitable*

19. The following are examples of organisations or aims which are often assumed to be charitable, but in fact are not:

- individual sports clubs set up to benefit their members or promote excellence (as distinct from sports facilities open for everyone or specifically provided for special groups of people, such as elderly people, or as a method of promoting healthy recreation);
- the promotion of political or propagandist aims, or the promotion of a particular point of view (for more details please see our guidance **Speaking out: Guidance on Campaigning and Political Activity by Charities (CC9)**);
- aims which include arrangements where people running the organisation get significant personal benefit;
- raising funds for other charities where the organisers do not have any say over how the funds are spent; or
- aims which promote friendship or international friendship, for example, town twinning associations.

## *Appeals for funds*

20. Fundraising is not a charitable object in itself: it is simply an activity which can be undertaken to help achieve a charitable purpose. If a charity wants to raise money to carry out work which is not covered by the existing objects of the charity, it can create a new charity with specific aims. Please contact us if you have any doubts about whether your proposed fundraising aims are authorised by the objects of your charity.

21. There are complex rules about fundraising and you may need to take professional advice on this. We offer advice in **Charities and Fundraising (CC20)**. We recommend you read this and consider the following points of good practice.

- Great care should be taken over the wording of a written appeal when asking for money from the public. We recommend that you make sure the aims for which the charity intends to use the money are accurately described.
- The record of a speech or broadcast may be regarded as evidence of the aims of an appeal. The organisers of that appeal cannot alter the aims of the appeal to something which is not consistent with the terms under which donors were invited to contribute. We recommend that care be given to the wording of any spoken appeal.
- If you want to raise money for the general purposes of an existing charity, you must make this clear and avoid any suggestion that the money will be used for a more specific purpose.
- If an appeal is for a specific purpose, such as paying for or restoring a building, we recommend that it states what will happen to the money if either not enough, or too much, is raised.

## *Disaster appeals*

22. We advise that particular care is taken over an appeal to help the victims of a disaster (or their families) where the beneficiaries may be a relatively small number of people. Disaster appeals are not always charitable. A charity cannot be created if it is intended that specific people will have the right to assistance whether or not they are in actual need, or that the benefits are only for particular private individuals. Where a charitable disaster appeal fund is set up, people will only be allowed to benefit on the basis of their proven need.

23. We appreciate that decisions on disaster appeals normally need to be taken very quickly. We suggest that promoters should consult us at an early stage before launching such an appeal. The Attorney General has issued guidelines about disaster appeals which are available from us (**Disaster Appeals: Attorney General's Guidelines (CC40)**). HM Revenue and Customs have also issued guidance called Guidelines on the Tax Treatment of Appeal Funds, which is available on their website ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)) or from them at the address given at the end of this guidance.

*What are the main advantages of being a charity?*

24. The main advantages are that charities:

- do not normally have to pay income/corporation tax (in the case of some types of income), capital gains tax, or stamp duty, and gifts to charities are free of inheritance tax;
- pay no more than 20% of normal business rates on the buildings which they use and occupy to further their charitable aims;
- can get special VAT treatment in some circumstances;
- are often able to raise funds from the public, grant-making trusts and local government more easily than non-charitable bodies;
- can formally represent and help to meet the needs of the community;
- are able to give the public the assurance that they are being monitored and advised by us;
- can seek advice from us; and
- can get information from us, for example, our range of free publications.

*What are the limitations of being a charity?*

25. There are restrictions on what charities can do, both in terms of the types of work they do, and the ways in which they can operate:

- A charity must have exclusively charitable aims. Some organisations may carry out their aims by a range of activities, some of them charitable, some of them not. To become a charity, this type of organisation would have to stop its non-charitable activities. (The non-charitable activities can, of course, continue if carried on by a separate non-charitable organisation.) Promoters will need to consider carefully if becoming a charity will severely restrict their planned activities. If so, charitable status may not be right for your organisation.
- There are limits to the extent of political or campaigning activities which a charity can take on - we have published guidelines on this in **Speaking out: Guidance on Campaigning and Political Activity by Charities (CC9)**.
- Strict rules apply to trading by charities. Guidance on this can be found in **Trustees, trading and tax (CC35)**, on our website.
- Trustees are not allowed to receive financial benefits from the charity which they manage unless this is specifically authorised by the governing document of the charity or by us. Financial benefits include salaries, services, or the awarding of business contracts to a trustee's own business from the charity. Benefits which are incompatible with the establishment of an organisation for exclusively charitable aims cannot be authorised at all (further guidance can be found in **Payment of Charity Trustees (CC11)**). There are similar problems where the

spouse, relative or partner of a trustee receives such benefits. Trustees are, however, entitled to be reimbursed for their reasonable out-of-pocket expenses, for example, train fares to trustee meetings.

- Trustees need to avoid any situation where their personal interests conflict with their duties as trustees.
- Charity law imposes certain financial reporting obligations; these vary with the size of the charity. Further details may be found in our guidance **Charity Reporting and Accounting: The essentials April 2008 (CC15a)**.

### *What problems might a new charity face?*

26. Setting up a new charity does not need to be a complicated process. However all organisations need a name, money, people and clearly set out ways of operating. As a minimum you will need to consider the following questions:

- What will you call your charity?
- How will you raise the money you will need to run your charity and achieve your aims?
- Do you need to work alone or is there another group you could join or work with?
- How will you recruit trustees to administer the charity?
- What type of governing document will your charity need?

We have set out some guidance below to help you answer these.

### *Choosing a name*

#### **The charity's name**

27. The name of a charity is important. It is the name, rather than the charity registration number, that members of the public remember most about a charity. It is the charity's name that appears on its appeal literature and collecting tins. It is therefore important that charity names are sufficiently different to avoid confusion, and do not mislead members of the public in any way. Section 6 of the 1993 Act gives us powers to make a charity change its name in certain circumstances.

28. A charity name must not include a word or expression which might cause offence. This would not be in the interests of a charity or the charitable sector as a whole. In some cases, such names might not be allowed by law.

29. Before we register a new charity, we will compare the proposed name with those already on the Register to see if there are any identical or similar names. If the proposed name is the same as, or too similar to, a name which has already been registered, we will decide whether the

proposed name is acceptable for use again. Where it is not acceptable we will ask you to change the name. Whilst we cannot insist that a name is changed before registration takes place, we do have a power to order a name change once a charity is registered.

30. We strongly advise that, before setting up a new charity and executing a governing document, you carry out your own checks regarding the availability of names. You can do this either by viewing the Register on our website, [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk), or by telephoning Charity Commission Direct on 0845 300 0218.

31. Entering a name on the Register does not give the charity which uses it any rights to the name under general law. Nor can we guarantee the use of a particular name, even if at the time of enquiry, there appeared to us to be no objection to the use of that name. This is because we may not know of all names used by unregistered charities, or of names which may be legally protected by another charitable or non-charitable body.

32. Please note that the entering of a name on the Register does not prevent us from subsequently directing that the name be changed. **We will not be responsible** for any costs incurred directly or indirectly by the charity as a result of any subsequent direction to change a name.

33. We cannot suggest names for charities.

### **Companies using the word charity or charitable in their title**

34. If a company wants to use the words 'charity', 'charitable', 'charities', 'charity's' or 'charities' in its title or any compound word which includes these, it requires approval from the Secretary of State for Business, Enterprise and Regulatory Reform before a Certificate of Incorporation can be issued. Prior to giving approval, Companies House will need to see a letter from us confirming whether or not we have an objection to the use of these words in that organisation's title. If your company wishes to use one of these words in its name you should make a formal request to us and at the same time apply for registration. We will then consider both requests at the same time.

### ***What are the prospects for raising funds?***

35. The funding available to the charitable sector is limited. Any new charity may find it more difficult to get funding because local authorities, the public and organisations who give money to charities may prefer to continue to give to charities with a proven track record, rather than a new charity. Our guidance **Charities and Fundraising (CC20)** gives more information about this.

### ***Is there another charity already doing similar work?***

36. There are more than 190,000 registered charities, working throughout the UK and overseas, which undertake an extremely wide range of work. It is very likely that a charity already exists which is doing the kind of work which you would like to carry out, and there may be one working in your area of the country. We suggest that you think about whether it

would be better to offer your services to, or combine with, an existing charity. It is usually less effective to have several organisations trying to carry out the same work in the same place, and it duplicates running costs.

37. If you wish to commemorate someone close to you, it may be possible to create a separate named fund within an existing charity: this may be just as effective as creating a new charity.

38. If you would like to look for charities in your area, you can find the Register on our website ([www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)), or you can telephone Charity Commission Direct on 0845 300 0218.

**What are charity trustees?**

39. These are the people who are responsible for “the general control and management of the administration of a charity” (s.97 of the 1993 Act). This is a legal definition of those people who will run and be responsible for the charity. When you set up a charity you need to think carefully about who the first trustees will be.

40. All charities must have a clearly identifiable body of trustees, but they are often called various names depending upon what type of governing document the charity has. Some examples are in the following table:

Type of governing document	Charity trustees will usually be called
Constitution or Rules	Executive or management committee members
Trust deed	Trustees
Memorandum & articles of association	Board, council of management or directors

**Considerations for potential trustees**

41. Whatever the trustees are actually called, their responsibilities as trustees are the same. The directors of charitable companies also have responsibilities under company law. The duties and responsibilities of a charity trustee are wide ranging and need to be taken seriously. Anyone who wants to be a trustee needs to be prepared to give the necessary time and effort to understanding and carrying out those responsibilities. Our guidance **The Essential Trustee: What you need to know (CC3)** sets these out.

42. It is a general legal principle that those who run the charity (the trustees) should not financially benefit from it, unless they are specifically authorised to do so either by the charity's governing document or by us. Trustees must avoid being placed in a position where their duties as a trustee conflict with their own personal interests. However, this legal principle does not prevent the charity trustees of a community charity (eg a temple) 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 our guidance **Users on Board: Beneficiaries who become trustees (CC24)**.

43. We have issued a range of guidance for trustees (or those who are thinking of becoming a trustee), for example **Payment of Charity Trustees (CC11)** and **Finding new trustees: what charities need to know (CC30)**.

*Can anyone act as a trustee?*

44. No-one under the age of 18 can be appointed as a trustee unless the charity is a registered company. The Companies Act 2006 will bring in a minimum age for company directors of 16 years (although the Secretary of State can make regulations providing for exceptions to this). This is expected to come into force in October 2008. Some people are disqualified by law from acting as charity trustees, including anyone described in section 72(1) of the Charities Act 1993. Broadly that covers:

- anyone who has been convicted of an offence involving deception or dishonesty, unless the conviction is spent;
- anyone who is an undischarged bankrupt;
- anyone who has previously been removed from trusteeship of a charity by the Court or by us;
- anyone who is subject to a disqualification order under the Company Directors Disqualification Act 1986.

**45. It is an offence to act as a charity trustee while disqualified unless we have given a waiver.** In addition to the disqualifications detailed in section 72(1) of the 1993 Act, which apply to all types of charities, the Criminal Justice and Court Services Act 2000 disqualifies certain individuals from holding a range of positions in children's charities as defined in section 36 of that Act. This includes charity trusteeship. We do not have the authority to grant a waiver for this type of disqualification.

*What are the qualities needed to be a trustee?*

46. Trustees need to be able and willing to give time to the efficient administration of the charity and the fulfilment of its trusts. We recommend that they be selected on the basis of their relevant experience and skills and need to be prepared to take an active part in the running of the charity. They ought not to be appointed for their status or position in the community alone; this is the function of patrons.

47. We believe that diversity across the trustee body is an important factor for accountability. Selecting trustees from a range of social and economic backgrounds is a good way of achieving this. More guidance is given in **Finding new trustees: what charities need to know (CC30)**.

*What principles are needed to guide trustees when administering their charity?*

48. Trustees need to follow certain guiding principles:

- The income and property of the charity must be used or applied for the aims set out in the governing document and for no other purpose, and must be applied (including where the application is by way of providing services) fairly between persons who are properly qualified to benefit from it.
- The trustees should only retain the charity's income as a reserve if they have a clear policy covering reserves (for example to cover a contingency). Our guidance **Charities' Reserves (CC19)** explains more about this.

- Trustees are required to act reasonably and prudently in all matters relating to the charity and need always to bear in mind the interests of the charity. They cannot let their personal views or prejudices affect their conduct as trustees.
- They need to exercise the same degree of care in dealing with the administration of their charity as a prudent business person would exercise in managing their own affairs or those of someone else for whom they are responsible.
- It is good practice that where trustees are required to make a decision which affects the personal interests of one of their number, that person should not be present at any discussion or vote on the matter. This should be set out in the governing document.

49. In matters of doubt, trustees should seek their own professional advice.

50. We believe that it is important that organisations working with children and vulnerable adults have a suitable child or vulnerable adults protection policy. If you apply to register your charity and plan to work with children or vulnerable adults you will be asked to supply us with a copy of your protection policy. Charities working with children or vulnerable adults may also be required by law to make the appropriate checks on trustees and/or employees with the Criminal Records Bureau. Further information on which charities should seek CRB disclosures for their trustees can be found in **Finding new trustees: what charities need to know (CC30)**.

### *What are the liabilities of trustees?*

51. If trustees act prudently, lawfully and in accordance with their governing document then any liabilities they incur as trustees can be met out of the charity's resources. But if they act otherwise they may be in breach of trust and liable to meet any liabilities of the charity which are a consequence of their own actions, or to make good any loss to the charity. Since trustees must act jointly in administering a charity, they will also be responsible jointly to meet any liability incurred by them or on their behalf. We are able to take proceedings in court for the recovery, from trustees personally, of funds lost to a charity as a result of a breach of trust by the trustees.

52. If trustees enter into contracts in the course of administering the charity, and as a result incur liabilities or debts which amount in total to more than the value of the charity's assets they may be sued personally for the difference by the charity's creditors. We strongly recommend that trustees be particularly careful when entering into substantial contracts or borrowings to ensure that the charity has the means to meet its obligations. If your organisation is likely to be entering into contracts to provide services, or plans to directly employ staff, you should consider using the company format. Annex A gives further information.

## *Types of governing document*

### Choice of governing document

53. All charities need a governing document. The governing document sets out how the charity's income can be spent, how the trustees are appointed and how the charity will operate.

54. There are three main types of governing document, and the type you choose will determine the type of organisation the charity will be. The three main types of governing document are:

- Constitution or Rules;
- Trust deed; and
- Memorandum and articles of association.

55. Brief guidance is given in Annex A on these types of governing document. If you require information in greater detail, please refer to **Choosing and Preparing a Governing Document (CC22)**.

### Model governing documents

56. We produce model forms of these types of governing document:

- Charitable Companies: Model Memorandum and Articles of Association - GD1.
- Charitable Trusts: Model Trust Deed - GD2.
- Charitable Associations: Model Constitution - GD3.

57. Our models contain administrative provisions that are suitable for each of these types of organisation. However, it is still necessary for anyone using those models to insert the objects of the organisation, complete blank spaces left in certain clauses and select some clauses where options are available. Copies of these models are available from each of our offices, free of charge, or from our website.

58. The Charity Law Association (CLA) also produce suitable model governing documents, for which a charge is made. To order copies of the CLA governing documents please e-mail the CLA administrator, on [admin@charitylawassociation.org.uk](mailto:admin@charitylawassociation.org.uk)

59. We have published some example objects on our website which, if suitable, can be included in a governing document, particularly a model governing document.

### Approved governing documents

60. Some large national charities produce an approved governing document that can be used by organisations associated with that charity. These approved governing documents contain both agreed objects and

administrative provisions that are specific to a particular type of organisation. A list of organisations for which an approved governing document has been agreed can be found on our website:  
[www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

If your organisation adopts an approved governing document it can apply for registration via the Commission's on-line application for registration service. It provides a quick and easy means of getting the registration application form and governing document to the Commission. The user-friendly system will provide you with online guidance throughout completion of the form, and allows you to save the form at any time and come back to it another time if you wish.

This is the first stage of online application for registration and the service is restricted to those applicant charities that are using an approved governing document. Using the online application system will reduce the time it takes to assess your application and complete charity registration. Access to the on-line application service is via our website:  
[www.charitycomission.gov.uk](http://www.charitycomission.gov.uk)

*Do you need to register your charity?*

61. We are the Charity Commission for England and Wales. We cannot register organisations set up under the laws of a foreign country, or in Scotland, Northern Ireland, the Isle of Man, or the Channel Islands. Whether we can register the organisation therefore depends on whether the law which applies to the organisation is that of England and Wales. For companies this normally means that they must themselves be registered in England and Wales. In other cases if the governing document itself does not make this clear, the law which applies will be that of the country with which the organisation has its closest connection. This will depend on the extent to which:

- the organisation's centre of administration is in England and Wales;
- most of the trustees live in England and Wales;
- most of the organisation's property is in England and Wales.

62. We will give advice where there is any doubt about the registration of such an organisation.

63. The minimum requirement for registration is that a charity must have an income of more than £5000 a year.

64. Organisations with an annual income not exceeding £5000 from all sources will be able to seek voluntary registration when the part of the Charities Act 2006 that permits this comes into effect. We will publicise this on our website before it happens. Until then the Commission's priority is to complete the programme of registering previously excepted and exempt charities: we are not required to register a prospective charity that cannot demonstrate that it has already achieved the minimum income.

65. We will only consider an application for registration from an organisation below the minimum income in exceptional circumstances. Examples of when we might do this are:

- high profile organisations likely to receive significant funding in a very short time and where public confidence in charity would be diminished if we were not seen to be exercising our regulatory function;
- where the organisation can provide **specific** evidence that significant grant funding rests upon it being a registered charity.

66. We will not consider an application simply because the trustees **think** they will have difficulty in attracting funding without a registered charity number. There are other ways in which the organisation can establish its credibility. For example, for small charities HMRC will assess whether tax relief can be given. An HMRC number will provide the evidence of charitable status. Alternatively you may wish to set up a named account with an existing charity until you have achieved the required level of income.

67. If your organisation has less than the minimum income do NOT submit an application until you have checked that we are prepared to consider this. You can email the Registration Unit at the following address [RegistrationApplications@charitycommission.gsi.gov.uk](mailto:RegistrationApplications@charitycommission.gsi.gov.uk) or write to Charity Commission Direct explaining why you think we should look at your application.

68. If you submit an application, and do not have either:

- the necessary evidence of income; or
- a letter or email from us confirming that we have agreed to assess the application;

your application will be sent back to you to hold until such time as the charity has an income of more than £5000.

69. For evidence of income we normally require one of the following:

- latest annual accounts;
- a bank statement; or
- a formal offer of funding.

70. If you do not have an HMRC reference number then banks may not allow you to open a tax free account. However, you should still be able to open a treasurer's account. This can be converted into a tax free account when and if you become a registered charity or can show that HMRC have recognised the organisation's charitable status.

*Which charities do not need to register?*

71. An organisation must register with us if it fulfils both the requirements for charitable status (see paragraph 2) and the minimum requirement for registration (see paragraph 63).

72. Most charities will meet both sets of criteria described above and must register. However, some charities, called **exempt** charities, cannot register, and are not subject to our supervisory powers. These charities (listed in Schedule 2 of the 1993 Act) include some educational institutions, and most universities and national museums. More detail on exempt charities may be found in Operational Guidance OG57, written primarily for our staff and available on our website.

73. Some other charities are **excepted** from the need to register, although (in contrast with exempt charities) they are still subject to the other provisions of the 1993 Act, and our supervision. These charities have been specifically excepted from the requirement to register by legislation or by a Commission Order. The under-pinning excepting regulations have been extended until 2012. However, excepted charities with an income over £100,000 will have a duty to register when the relevant part of the Charities Act 2006 comes into force. This is expected to be in late 2008.

74. In exceptional circumstances, we will consider registering, on a voluntary basis, a charity which is excepted from the need to register. The applicant will need to persuade us that there is some compelling reason to do this. As a general rule we are working with umbrella bodies that have oversight of groups of excepted charities. This work will mean that we have agreed procedures in place and approved governing documents (for example for the different types of churches) when registration is required. Most of the national bodies do not want the local branches of their organisations to come to us independently in advance of this.

## PART II - THE REGISTRATION PROCESS

### *How to apply*

75. To register a charity, you will need to use the pack containing the application form for registration (which is available in English and Welsh). This can be downloaded from our website or obtained by returning the coupon at the back inside cover of this publication. Only ask for the pack if, having read this guidance, you believe that:

- your organisation is charitable; and
- it is required to register.

76. You should make an application only after you have formally adopted a governing document. The tables in Annex A explain how to adopt different types of governing document. However, we may (in exceptional circumstances) consider a request from an organisation which has not yet formally adopted a governing document. Each request will be considered on its own merits but examples of the circumstances where we may consider a draft governing document are:

- where a disaster appeal is due to be launched and time is short; or
- if the proposed charity is operating in a field which is on the fringes of charity law, and the views of our legal staff may need to be sought; or
- where the proposed charity is a company and wishes to use a sensitive word in its name (see paragraph 34).

77. The answers to many of the questions on the application form will depend on what is in the governing document. To apply for registration please send us:

- the completed application form;
- the signed trustee declaration form;
- a copy of the governing document; and
- evidence of income or a letter or email from us confirming that we have agreed to assess the application even though the income threshold has not been reached.

78. Where the applicants propose to work with vulnerable beneficiaries the trustee declaration requires the trustees to confirm that the organisation has carried out any necessary or recommended checks with the Criminal Records Bureau or any other relevant agency.

## *Speeding up your application*

79. If you adopt an appropriate approved governing document (see paragraph 60) without amending it (other than to fill in blanks or delete optional paragraphs) this will speed up your application for registration. Organisations using an approved governing document must confirm:

- that the national body has agreed to their use of the approved governing document; and
- that they will operate within the guidelines issued by that body.

If your organisation adopts an approved governing document it can apply for registration via the Commission's on-line application for registration service. It provides a quick and easy means of getting the registration application form and governing document to the Commission. The user-friendly system will provide you with online guidance throughout completion of the form, and allows you to save the form at any time and come back to it another time if you wish.

This is the first stage of online application for registration and the service is restricted to those applicant charities that are using an approved governing document. Using the online application system will reduce the time it takes to assess your application and complete charity registration. Access to the on-line application service is via our website: [www.charitycomission.gov.uk](http://www.charitycomission.gov.uk)

80. Organisations that adopt one of our model governing documents will have governing documents that are easier to consider because the administrative provisions have already been agreed.

81. However, if an organisation is to be recognised as a charity it must have exclusively charitable objects. Getting this right can be difficult. To help you with this we provide some example objects for a wide variety of different types of charity on our website under 'Example objects'.

82. If the way in which the objects clause is worded is not capable of being charitable then we will have to ask you to amend the governing document before we can proceed. This is likely to cause significant delay.

83. Before using an approved governing document or a model with example objects you need to be sure that the governing document you create accurately reflects what the organisation will do and how it will operate.

## *Declaration by the trustees or promoters*

84. All the trustees must sign the declaration form. To establish that a person is not disqualified from being a trustee, we need to have:

- all the names by which trustees are, or have been, known;
- their addresses; and
- their dates of birth.

*How do we decide whether your organisation is a charity?*

85. However, only the preferred name of each trustee will be displayed on the public Register on our website.

86. We must apply charity law in making our judgments as to whether an organisation is charitable. This includes:

- Checking that the objects are capable of being charitable. This normally involves considering whether the objects are currently recognised as being charitable. If they are not we will apply the principles in **Recognising New Charitable Purposes (RR1A)** in considering whether a new charitable purpose can be recognised within the law.
- Checking its activities or proposed activities to see whether these are capable of furthering the stated purpose.
- Being satisfied that the organisation demonstrates sufficient public benefit.

87. Our decision will be based mainly on the information you supply.

88. We must have some basic factual information about the charity and the trustees in order to make the appropriate entries in the Register of Charities. We must be satisfied that the organisation is eligible to be registered and not exempt or excepted from registration.

89. If the organisation cannot operate and has no plans to enable it to operate in the foreseeable future then it cannot remain on the Register. In addition we must be satisfied that each of the trustees is eligible to act as a trustee. We will carry out checks with other agencies (eg the Insolvency Service), and where children are involved we need to be satisfied that any necessary checks have been made through the Criminal Records Bureau against the lists it administers under the Protection of Children Act 1999.

*Supporting information*

90. In many cases we find that whilst the objects as worded are not capable of being charitable, the proposed activities when fully explained, clearly show a charitable intention. In such cases we will advise on changes to the wording of the objects, rather than simply rejecting the application.

*Giving advice and guidance*

91. Our functions under the 1993 Act include:

- encouraging the development of better methods of administration;
- investigating and apparent misconduct or mismanagement in the administration of charities.

92. As the regulator of charities, we have a number of objectives as well, including to increase public trust and confidence in charities. We believe that a good time to offer guidance to organisations is before they start their

life on the Register. We should all share the objective of seeing every charity having the best opportunity to flourish. As a result where we consider it appropriate we will offer guidance on governance and good practice issues at this stage. This may involve changes to the administrative provisions of your governing document which do not affect the charitable status of the organisation. Experience has shown that organisations appreciate being given this sort of guidance at this time.

*What happens when we receive your application?*

93. When Charity Commission Direct have received:

- the completed application form;
- the trustee declaration; and
- the supporting documentation listed in Appendix A;

they will send you an acknowledgment.

94. At the same time the application will be sent to the Registration Unit for assessment. The Registration Unit aim to provide an initial response to the application within 15 working days. If you have used an approved governing document without changing it and there is no significant private benefit to any trustee or related party we will normally be able to approve your application and give you the registration number within this time frame.

95. However, quite often we will need to ask further questions, before we can tell whether the organisation is charitable in law. If this happens we will give you the name and contact number for the person dealing with your application. You will also be provided with a reference number to quote in future correspondence.

96. If we need to contact you for further information or clarification, we will try to be clear about whether our questions directly relate to charitable status or to issues of governance and good practice. Sometimes as we are building up a picture of an organisation it may not be possible for us to differentiate clearly between the two until we have the necessary information.

*Will we consider an application where the governing document is in draft form, that is, the organisation does not yet exist?*

97. **In general the answer to this is 'NO'**. The reason for this is that, in our experience, organisations which already exist have a clear idea of the ways in which they will carry out their objects. In the past we have found that, where an organisation submits a draft governing document, this often leads to lengthy correspondence because the promoters have no clear understanding of what they want to do. In many of these cases the organisation is never actually set up.

98. The only general exception is for applications from companies wishing to use the word charity or charitable in its name (see paragraph 38) or for disaster appeals (see paragraphs 22 and 23).

99. Where the objects and activities appear to be charitable you will be asked to submit a formal application, but this is no guarantee that registration will be granted.

***What happens if your application is unsuccessful?***

100. If, having considered all the information provided with the application, we decide that your organisation is not exclusively charitable we will write to you and let you know why. The letter will also explain that if you disagree with our decision or if you feel we have misunderstood your application, you will need to write to us setting out the reasons why you think your organisation is charitable. This will allow us to review our decision. You have a right of appeal to the Charity Tribunal where, despite a review of the decision, we are unable to register your organisation.

***Date of registration***

101. If your application is successful, the date of registration is the date on which we enter your organisation on the Register of Charities. However, charitable status does not depend on registration but on the date that the organisation was set up as a charity (for example, the date charitable objects were adopted). HM Revenue and Customs may backdate tax exemption to the date on which your organisation started to carry out exclusively charitable aims, even if this was before the date of registration.

102. Details about your charity will appear on the Public Register on our website within 2 working days of being accepted for registration.

***What happens after registration?***

103. Registration is not the end of the process. You will have a number of ongoing duties and responsibilities, some of which may involve regular contact with us. This contact will not only provide you with advice and help when you need it, but provides the general public with confidence that charities are being effectively monitored and checked to make sure they are doing what they should. The following is a list of some of the things you will have to do if you are the trustee of a registered charity:

- keep your charity's accounts;
- tell us about any changes to your governing document (for example, changing the specified date of an Annual General Meeting or changing the number of trustee meetings);
- tell us about any changes to the details of your charity shown on the Register of Charities (for example the correspondent's address) - one way of discharging this duty is to return the charity details update form we send out each year;
- tell us if your charity no longer exists or operates; and

- 
- charities with an income or expenditure over £10,000 have a legal duty to send us the Annual Return we issue each year. This should be accompanied by the Accounts, Examiner's or Auditor's Report and Trustees' Annual Report. These documents must be sent to us within 10 months of the end of the charity's financial year.

104. If your application for registration is successful, we will send each trustee a letter and leaflet welcoming them to trusteeship and reminding them of these duties, and we will also write to the nominated correspondent confirming your charity's entry on the Register of Charities.

## Annex A - What legal structure is best for your organisation?

### Constitution

What kind of organisation does a constitution create?	
Type of organisation:	Unincorporated Association
Trustees are usually called:	Executive or Management Committee members
A constitution may also be known by another name, such as Rules.	
The 'association' part of the description means that it is an organisation consisting of a group of people who have decided to co-operate in furthering what the organisation is set up to do, and who have certain parts to play in its administration.	
<p>The 'unincorporated' part of the description tells you that the organisation is not a company. This means that the association will not:</p> <ul style="list-style-type: none"> <li>• have limited liability and a legal personality of its own (ie the charity trustees may be liable for the repayment of any debts which they have incurred on behalf of the charity, such debts can be met from the charity's own funds unless the charity trustees had not acted prudently, lawfully, and in accordance with the charity's governing document); or</li> <li>• be able to own land (and usually investments) in its own name.</li> </ul>	
<p>It may be appropriate to establish an unincorporated association where any one or more of the following applies:</p> <ul style="list-style-type: none"> <li>• The organisation is to be relatively small in terms of assets.</li> <li>• The organisation is to be a local branch of a national charity, and a standard constitution exists for branches.</li> <li>• It has a membership.</li> <li>• The charity trustees are elected or appointed to hold office for a fixed period, usually 1 year.</li> <li>• The charity trustees are to be elected by members.</li> <li>• The views of local residents and organisations need to be represented through membership or as users of the facilities.</li> <li>• The objects of the organisation are to be carried out wholly or partly by, or through, its members (ie where the members undertake office or voluntary work on behalf of the organisation).</li> </ul>	

### Professional legal advice

Generally, you do not need this. As a constitution is a less complex document than a trust deed or a memorandum and articles of association, you may not need the help of a professional legal adviser to set it up. Further guidance on preparing a constitution can be found in **Choosing and Preparing a Governing Document (CC22)**.

### How is a constitution put into operation?

In practice, it is normally put into operation by being **adopted** (accepted for use) at a formal meeting of those people who are, or will be, the charity trustees and the general membership.

You will require a final typed version of the constitution which must:

- be signed by all the charity trustees;
- dated the day of the meeting at which it was agreed; and
- a note that the constitution was formally adopted should be made in the minutes of that meeting.

### What documents are needed for registration?

As well as the application form and the trustee declaration, both of which are included in the **Application to register a charity pack (CC5)**, we need:

- a copy of the current version of the constitution;
- confirmation from one of the trustees of the date on which a members' meeting adopted the constitution; and
- evidence of the required level of income, or a copy of a letter or email from us agreeing to consider the application.

## Trust deed

What kind of organisation does a trust deed create?	
Type of organisation:	Trust
Trustees are usually called:	Trustees
Trust deeds may also be known by other names, such as declaration or deed of trust, or deed of settlement.	
A trust deed will create a <b>trust</b> . A trust cannot own land or sign documents in its own name.	
<p>It may be appropriate to establish a trust where some or all of the following apply:</p> <ul style="list-style-type: none"><li>• The organisation is to be run by a fairly small group of people.</li><li>• There is no time limit on how long the charity trustees will be in office (although we recommend that the composition of the trustee body is reviewed regularly).</li><li>• New charity trustees are going to be appointed by the continuing charity trustees.</li><li>• The organisation is not going to rely on a membership for any part of its administration.</li><li>• The administration of the organisation is going to be simple.</li><li>• The organisation is to be a grant-making body only.</li><li>• Land and buildings are to be held on trust for permanent use for the aims of the charity.</li><li>• There is to be a restriction on spending capital.</li></ul>	
<b>Professional legal advice</b> <p>A trust deed is a formal document, so you may need the help of a professional legal adviser to complete and execute it. Further information about preparing a trust deed can be found in <b>Choosing and Preparing a Governing Document (CC22)</b>.</p>	

### **How is a trust deed put into operation?**

It is **executed**: this means that it needs to be signed and dated, in the presence of an independent witness, by those who are setting up the trust. The witnesses must then sign their name against each of those signatures and give their address. The purpose of this is to verify the identity of those signing.

The trust deed should refer to a specific amount of money or some other asset that will belong to the trust at the time that the trust deed is executed. It is accepted for a nominal sum of money to be declared, say £5 or £10. If the trust deed declares charitable trusts but does not refer to any actual assets which are held on those trusts at the time the deed is executed, then we cannot register the charity unless and until there is independent evidence that some property has actually been settled on the trusts of the deed, and that the charity meets the minimum requirements for registration.

### **Does it need to be stamped?**

For deeds executed after 1 December 2003 it will depend on the assets being held on trust. If the deed declares trust over:

- stocks and shares, it should be sent to the HM Revenue and Customs Edinburgh Stamp Office, in case it attracts stamp duty;
- an interest in land (ie the freehold or leasehold), it does not require stamping - a separate certification procedure is now in place for Stamp Duty Land Tax;
- cash, it will not require stamping.

Deeds executed before 1 December 2003 will require stamping.

Further information can be found on the HM Revenue and Customs website ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)) or by ringing the Stamp Taxes helpline: 0845 603 0135.

### **What documents are needed for registration?**

As well as the application form and the trustee declaration, both of which are included in the **Application to register a charity** pack (CC5), we need:

- a copy of the dated trust deed showing the names of the first charity trustees and the witnesses to their signatures;
- a copy of any supplemental deeds or deeds of variation showing subsequent amendments;
- if the deed(s) declare(s) trusts over stocks and shares, evidence of adjudication by the local Stamp Office or a valid exemption certificate; and
- evidence of the required level of income, or a copy of a letter or email from us agreeing to consider the application.

**Memorandum and articles of association**

What kind of organisation does a memorandum and articles of association create?	
Type of organisation:	Company limited by guarantee
Trustees are usually called:	Board, council of management or directors
<p>Memorandum and articles of association create a company. A company has an advantage over a trust and an unincorporated association in that it is 'incorporated'. This means that the law considers it to be a person, in the same way as an individual. Therefore a company, like an individual, can own land.</p>	
<p>A company is a legal person quite separate from its members and directors. The directors are agents of the company and as such are not normally liable personally for its debts. A person who acts as a director whilst disqualified from being one may be personally liable.</p>	
<p>A director may be liable to make payments to the company:</p> <ul style="list-style-type: none"> <li>• if he or she acts in breach of trust or duty to the company; or</li> <li>• if he or she is responsible for fraudulent or wrongful trading by the company (sections 213/214 Insolvency Act 1986).</li> </ul>	
<p>The company will also have 'limited liability' which means, in the case of a typical charitable company, that its members are normally only liable for the debts of the company to the extent which they have undertaken to guarantee them (usually the limit of liability stated in the memorandum of association is a nominal amount like £5).</p>	
<p>A company is subject to company law, as well as to charity law, and there are certain duties which must be observed, such as the annual filing of accounts with the Registrar of Companies.</p>	
<p>However, charitable companies can never be the same as commercial companies. The main purpose of commercial companies is to make profits for distribution to their members. The constitution of a charitable company always precludes the distribution of profits to members. All the property of a charitable company is applicable for charitable aims.</p>	

### Which organisations use this type of structure?

It may be appropriate to establish a company where some or all of the following apply:

- the organisation is quite large;
- it will have employees;
- it will deliver charitable services under contractual agreements;
- it will regularly enter into commercial contracts;
- it will be a substantial owner of freehold or leasehold land or other property (which is not permanent endowment).

### Professional legal advice

Because a company is subject to company law (which can be quite complex) you may well need the help of a professional legal adviser to set it up.

### How is a memorandum and articles of association put into operation?

It is put into operation by being subscribed to by one or more people in accordance with the provisions of Part I of the Companies Act 1985, and by registration with the Registrar of Companies at Companies House who will issue a **Certificate of Incorporation**. There is a fee for registering companies with the Registrar of Companies. (You can contact Companies House at Cardiff CF14 3UZ, telephone 0870 333 3636 or on their website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)).

### What documents are needed for registration?

As well as the application form and the trustee declaration, both of which are included in the **Application to register a charity** pack (CC5), we need:

- a copy of the memorandum and articles of association;
- a copy of the certificate of incorporation (unless because of words like 'charity' in the company's name we have to adjudicate before the company can be incorporated); and
- a copy of any special resolution(s) showing amendments to the memorandum and articles after incorporation; and
- evidence of the required level of income, or a copy of a letter or email from us agreeing to consider the application.

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## Annex B: Useful addresses and telephone numbers

### Charity Commission

Charity Commission website: [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

Copies of most of our publications can be found on our website with further advice on registration, duties of trustees, commonly asked questions about the accounts regulations and the Annual Return forms etc.

### Charity Commission Direct

PO Box 1227  
Liverpool  
L69 3UG

For all general telephone enquiries: 0845 300 0218

### Action with Communities in Rural England (ACRE)

Somerford Court  
Somerford Road  
Cirencester  
Gloucestershire GL7 1TW  
Tel: 01285 653477  
Website: [www.acre.org.uk](http://www.acre.org.uk)

The organisation offers advice and support on a wide range of issues from registration to maintaining buildings. It also provides training and publishes books and leaflets and has a special service for the managing trustees of village halls called 'The National Village Halls Advisory Service'.

Local ACREs assist charities and voluntary organisations in their area. The National Association offers advice direct, or can put charities in touch with their local ACRE.

### Association of Charitable Foundations

Central House  
14 Upper Woburn Place  
London WC1H 0AE  
Tel: 020 7255 4499  
Website: [www.acf.org.uk](http://www.acf.org.uk)

The Association assists grant-making trusts and foundations, including new ones at the early stages of formation. It provides a variety of courses, seminars and publications on good practice in grant-making and on relevant aspects of charity law, and represents grant-making charities in the public arena. The Association is a membership organisation open to all grant-making charities, and welcomes enquiries from non-members without obligation to join.

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### **Charities Aid Foundation**

25 Kingshill Avenue  
Kings Hill  
West Malling  
Kent ME19 4TA  
Tel: 01732 520000  
Website: [www.cafonline.org.uk](http://www.cafonline.org.uk)

The Foundation provides services to facilitate tax-efficient giving, and offers covenant administration services. It carries out research and publishes information on all aspects of funding concerning the voluntary sector. Its services are available to the voluntary sector in general.

### **The Charity Law Association**

CLA Administrator  
E-mail: [admin@charitylawassociation.org.uk](mailto:admin@charitylawassociation.org.uk)

### **Community Matters**

12-20 Baron Street  
Islington  
London N1 9LL  
Tel: 020 7837 7887  
Website: [www.communitymatters.org.uk](http://www.communitymatters.org.uk)

The organisation provides advice and assistance, a Community Consultancy Service, courses, seminars, conferences and a wide range of publications. Its services are offered to new and established community organisations.

### **Companies House**

Crown Way  
Maindy  
Cardiff  
CF14 3UZ  
Tel: 0870 333 3636  
Website: [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

### **Directory of Social Change**

24 Stephenson Way  
London NW1 2DP  
Tel: 0845 077 7707

The organisation offers a wide range of courses and training events on many subjects including volunteer management, communications and fundraising. A wide range of publications is also produced (eg Fundraising Handbook, Guide to the Major Trusts). Services are available to any voluntary sector group.

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### **Financial Services Authority**

25 The North Colonnade  
Canary Wharf  
London E14 5HS  
Tel: 020 7066 1000  
Website: [www.fsa.gov.uk](http://www.fsa.gov.uk)

### **Gambling Commission**

Lotteries Section  
4th Floor  
Victoria Square House  
Victoria Square  
Birmingham B2 4BP  
Tel: 0121 230 6666

The organisation provides information about the regulations concerning lotteries. It is a Government Agency, and any individual may therefore seek information from the Board.

### **HM Revenue and Customs**

HMRC Charities  
St John's House  
Merton Road  
Bootle  
Merseyside L69 9BB  
Tel: 08453 020203

HMRC Charities is the business stream of HM Revenue and Customs which is responsible for all matters relating to the taxation of charities, including VAT. They have a range of booklets about tax reliefs available to charities.

### **Housing Corporation**

Maple House  
149 Tottenham Court Road  
London W1P 6BN  
Tel: 0845 230 7000

### **Institute of Fundraising**

Park Place  
12 Lawn Lane  
London SW8 1UD  
Tel: 020 7840 1000

The Institute of Fundraising is a registered charity offering education and training courses in charity fundraising with the aim of improving standards of performance and ethical practice in charity fundraising.

The Institute is a professional one, and membership is open only to individuals who must abide by a strict code of practice.

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### **Interchange Legal Advisory Service**

Interchange Studios  
Hampstead Town Hall Centre  
213 Haverstock Hill  
London NW3 4QP  
Tel: 020 7692 5860  
Fax: 020 7813 7493  
E-mail: [legal@interchange.org.uk](mailto:legal@interchange.org.uk)

This body gives advice to the whole range of charities, and proposed charities, including national and local groups. The advice covers the preparation of governing documents, advising on trust and charity law, and matters relating to trustees' responsibilities, employment, property, dissolution and insolvency.

### **National Association for Voluntary and Community Action (NAVCA)**

The Tower  
2 Furnival Square  
Sheffield S1 4QL  
Tel: 0114 278 6636

This organisation is the national umbrella body for 250 Councils for Voluntary Service in England. A local Council for Voluntary Service provides advice, support and information to voluntary organisations and charities in their area, including help with registration. If you would like details of your local Council for Voluntary Service please contact NAVCA as above.

Similar organisations to the NAVCA exist for voluntary organisations and charities based in Wales. Please contact WCVA (see below).

### **National Council for Voluntary Organisations (NCVO)**

Regent's Wharf  
8 All Saints Street  
London N1 9RL  
Tel: 020 7713 6161  
Freephone helpdesk: 0800 2798 798

NCVO is the largest umbrella body for the voluntary and community sector and offers advice and information on a wide range of subjects. As well as providing best practice advice, NCVO represents the sector when dealing with government and policy makers. NCVO is also a membership body and has over 4,200 organisations as members.

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**Northern Irish charities:**

Department for Social Development  
The Voluntary & Community Unit  
Ground Floor  
Lighthouse Building  
1 Cromac Place  
Gasworks Business Park  
Ormeau Road  
Belfast BT7 2JB  
Tel: 02890 829414  
E-mail: vcu@dndni.gov.uk

**Office of the Scottish Charity Regulator**

2nd Floor  
Quadrant House  
9 Riverside Drive  
Dundee DD1 4NY  
Tel: 01382 346890 or 07724 150833  
E-mail: info@oscr.org.uk

**Wales Council for Voluntary Action (WCVA)**

Baltic House  
Mount Stuart Square  
Cardiff CF10 5FH  
Tel: 029 2043 1700

WCVA is the voice of the voluntary sector in Wales. It represents the interest of and campaigns for voluntary organisations, volunteers and communities in Wales. It provides a comprehensive range of information, consultancy, funding, management and training services.

**Wales Association of County Voluntary Councils (WACVC)**

c/o G Benfield  
WCVA  
(Address as above)  
Tel: 029 2043 1700

## Annex C - Charity Commission guidance

We produce a range of guidance in a variety of formats (eg booklets, audio-cassettes, CDs and information sheets). Those which are relevant to starting and registering a charity are listed below with appropriate reference numbers. For a full list see **Charity Commission Publications (CC1)**. All are obtainable on our website, by calling Charity Commission Direct on 0845 300 0218, or by completing the coupon at the back of this booklet and sending it to the address shown.

### Guidance (available on the website or in hard copy)

	Charities and Public Benefit
	The Charity Commission and Regulation
CC3	The Essential Trustee: What you need to know
CC3a	The Essential Trustee: An introduction
CC5	Application to register a charity
CC8	Internal Financial Controls for Charities
CC9	Speaking out: Guidance on Campaigning and Political Activity by Charities
CC11	Payment of Charity Trustees
CC15a	Charity Reporting and Accounting: The essentials April 2008
CC19	Charities' Reserves
CC20	Charities and Fundraising
CC20a	Charities and Fundraising: A Summary
CC22	Choosing and Preparing a Governing Document
CC23	Exempt Charities
CC24	Users on Board: Beneficiaries who become trustees
CC35	Trustees, trading and tax
CC36	Changing your charity's Governing Document
CC37	Charities and Public Service Delivery: An introduction and overview
CC40	Disaster Appeals: Attorney General's Guidelines
CC48	Charities and Meetings
CC49	Charities and Insurance
CC60	The Hallmarks of an Effective Charity

**To request these on audio-cassette, replace the CC prefix in the reference number with AC. A few (eg CC3, CC3a and CC37) are available on CD instead.**

Also available:

### Review of the Register publications

RR1	The Review of the Register of Charities
RR1A	Recognising New Charitable Purposes
RR2	Promotion of Urban and Rural Regeneration (website only)
RR3	Charities for the Relief of Unemployment
RR4	The Recreational Charities Act 1958 (website only)
RR5	The Promotion of Community Capacity Building (website only)
RR6	Maintenance of an Accurate Register of Charities
RR7	The Independence of Charities from the State

- RR9 Preservation and Conservation (website only)
- RR10 Museums and Art Galleries
- RR11 Charitable Status and Sport (website only)
- RR12 The Promotion of Human Rights (website only)
- RR13 The Promotion of the Voluntary Sector for the Benefit of the Public (website only)
- RR14 Promoting the Efficiency and Effectiveness of Charities and the Effective Use of Charitable Resources for the Benefit of the Public (website only)

### **Model governing documents**

- GD1 Charitable Companies: Model Memorandum and Articles of Association
- GD2 Charitable Trusts: Model Trust Deed
- GD3 Charitable Associations: Model Constitution

### **Research reports**

- RS1 Trustee Recruitment, Selection and Induction
- RS2 Charities and Commercial Partners
- RS3 Charity Reserves
- RS3A Charity Reserves - Key Findings
- RS4 Collaborative Working and Mergers
- RS4A Collaborative Working and Mergers - Summary
- RS5 Small Charities and Reserves
- RS6 Milestones - Managing key events in the life of a charity
- RS6A Milestones - Summary
- RS7 Membership Charities
- RS7A Membership Charities - Summary
- RS8 Transparency and Accountability
- RS9 Village Halls and Community Centres
- RS9A Village Halls and Community Centres: Summary
- RS10 Start as you mean to go on: Trustee Recruitment and Induction Research Report
- RS11 Cause for Complaint? How charities manage complaints about their services
- RS12 The Regeneration Game: The range, role and profile of regeneration charities
- RS13 Tell it like it is: The extent of charity reserves and reserves policies
- RS14 In their own words: How charities have responded in the first year of the Summary Information Return
- RS15 Stand and deliver: The future for charities providing public services
- RS16 Charities working in the field of human rights

## Braille

The following publications are also available in the Braille format:

CC3	The Essential Trustee: What you need to know
CC9	Speaking out: Guidance on Campaigning and Political Activity by Charities
CC20	Charities and Fundraising
CC22	Choosing and Preparing a Governing Document
CC24	Users on Board: Beneficiaries who become trustees
CC44	Small Charities: Transfer of Property, Alteration of Trusts, Expenditure of Capital

## Other languages

Most of our publications are available in Welsh, and CC3A is also available on our website in Arabic, Bengali, Cantonese, Gujarati, Punjabi, Somali, and Urdu. Please ask Charity Commission Direct staff for the latest details.

## Significant changes from the previous version of this guidance

The previous version of this guidance was published in October 2007. Significant changes introduced in this version include the definition of 'charity' introduced by the Charities Act 2006 which came into force on 1 April 2008 and a description of how to apply online for registration.

Other minor amendments have been made to update the text.

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*We aim to make our publications as useful and easy to read as possible. If you have any suggestions about how this guidance may be improved, please write to the Print and Publishing Manager at our Taunton office.*

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[www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

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## Notes