



# What is a voluntary organisation or charity?

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This information sheet briefly sets out what is a voluntary or community organisation and whether your organisation might want to be charitable or not. Each organisation is individual and so you might need one to one advice to check if being charitable is possible, or even desirable, for you.

## What is a voluntary/community organisation?

This is the catch-all word most often used to describe a type of organisation with the following characteristics;

**Organised.** The organisation has some form of structure to it. The rules for this structure are usually contained in something called the governing document. An organisation might still exist but not have a governing document if it has a committee and members and meets regularly. In this case these rules are simply unwritten and whenever someone does write them down, that document becomes the governing document. Even if the rules are never written down though, your group could still have a structure. Ad hoc, informal, and temporary gatherings of people would not therefore be considered voluntary organisations, but they are often the starting point.

**Purpose.** The organisation is set up to carry out some benefit for the wider community than just its members (unless there is a very large and/or open membership). This community benefit could be social, educational, environmental, economic, etc. and is generally what a person in the street would easily recognise as being for community benefit.

**Private and Self-Governing.** The organisation is independent from any other organisation with its own internal procedures for deciding matters without consulting an outside group, such as electing its committee. This does not mean that voluntary organisations cannot be helped by other organisations, such as the local council or ourselves. It does mean that a voluntary organisation must be free to appoint its own management committee who are able make their own decisions in the best interests of the voluntary organisation and not be instructed by any other group.

**Not-for-profit.** This is a misleading term. In fact voluntary organisations can make profits but the money must be ploughed back into the work of the group, not given to the members, the directors or anyone else as happens with for-profit groups. A more useful term is 'non-profit-distributing'.

**Voluntary.** The organisation involves some meaningful voluntary activity in its actual activities or in the management of the organisation. This does not mean that all the income of an organisation must come from voluntary contributions, or that everyone

that works for it must be a volunteer. The minimum level of voluntary activity is that the management committee, who have a legal responsibility to put the organisation's interest ahead of their own, must mostly be volunteers.

### **Do you want to set up an association, trust, or limited company?**

These are the three most common structures for voluntary organisations. All three types of organisation can be charities, i.e. a charitable association, a charitable trust or a charitable company.

#### **Associations / Trusts**

- Associations and trusts are groups of individuals
- All members are equally liable in the event of the group getting into debt
- If the group enters into a contract (for example, to rent a building) individual committee members need to sign the contract on behalf of the organisation
- Associations have general meetings of members each year, where the management committee is elected
- Associations are very simple to set up
- Trusts do not have members or elections – the first people who set up the organisation continue to run it until they appoint successors and retire.

#### **Companies**

- Companies have 'legal personalities' they can enter into contracts in their own name.
- Companies have limited liability. This means if the company ends up in debt, then the individual members only have to pay a limited sum (a minimum of £1).
- Companies have members who can call meetings and hold the directors to account
- Companies have to be registered with Companies House, and send financial information to them every year.

### **Will your organisation be charitable?**

Not all voluntary organisations can be charities and it is illegal to call yourself a charity when you are not. **Charity is a status, not a legal form.** It can apply to any organisation which has exclusively charitable purposes under English law and exists to pursue public benefit. The main charitable purposes/objects are:

- 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 the efficiency of the police, fire and rescue services or ambulance services, and;
- any other purposes charitable in law

To be a charity an organisation's purpose must be written in such a way that it will be interpreted in law as charitable. The Charity Commission website has suggested objects or you could look at the objects of similar organisations. Usually it is best to seek some professional advice to make sure you get the wording right (for instance ourselves).

All organisations with charitable status must exist for the public benefit which has a much tighter legal interpretation than community benefit and what a person in the street might interpret it as. The Charity Commission has published guidance on what this means. More information about charitable purposes and being a charity can be found on the Charity Commission website or again from ourselves.

All activities carried out by charities must be in furtherance of their objects and must be for the public benefit. This does not mean that charities cannot trade.

### **Advantages of being a charity**

**Public recognition & trust.** Charities are widely recognised as existing for social good. This can assist with fundraising, donations and recruiting volunteers.

**A lock on assets.** Organisations with charitable status are prevented from using their assets (cash, buildings, land and equipment) for any purpose other than to pursue their charitable objects. This means that the assets of a charity can never be used for other purposes or for private benefit.

**Tax relief.** Charities benefit from a variety of tax reliefs including:

- no corporation tax on profits made from trading in the course of delivering their charitable aims (primary purpose trading)
- 80% mandatory and 20% discretionary relief from business rates (rate relief)
- Gift aid on donations from tax paying individuals (currently 25% extra)
- Stamp duty land tax relief on acquisitions of freehold property or entering into leases
- some VAT exemptions

**Funding.** Many sources of grant funding are only open to organisations with charitable status.

### **Disadvantages of being a charity**

It should be remembered that, for many organisations, these 'disadvantages' are seen as advantages.

**Charity Law.** Charities are covered by charity law which regulates what they can and cannot do. Those running the organisation (trustees) have particular legal responsibilities and can be prosecuted if they fail in their duty to act in the best interests of the charity. Also some people cannot be trustees, e.g. bankrupts.

**Restrictions & requirements.** Charities may face restrictions on the type of work that can be carried out or funded by them. For example, political activities and trading are both types of work which are subject to particular restrictions. Charitable status also means that the organisation must comply with administrative regulatory requirements including those relating to the preparation of annual accounts and returns.

**Openness and transparency.** The names of the trustees are a matter for public record. Also anyone can ask for a copy of the charity's annual accounts and must be given one (charities can make a reasonable charge for doing so). If you become registered then certain information about the charity will be published on the web.

**Unpaid board.** Individuals on the board of a charity must be unpaid (trustees can claim back reasonable expenses like travel, phone calls, etc.) unless the constitution of that charity or the Charity Commission permits payment. In general, payment of trustees for particular services (e.g. the payment of a counsellor who happened to be a trustee to provide counselling services) is not a problem but the Charity Commission will want a detailed explanation before it will allow a charity to include in its constitution a provision allowing payment of trustees for being trustees.

This feature of charitable status can mean that it does not appeal to founders of organisations who need to receive a salary for the work they do but want to retain control. A founder who becomes a charity chief executive will receive a salary as an employee of the charity but can be dismissed by its board. A founder who sits on a board of charity is usually unpaid and, in any event shares control and responsibility equally with all the other members of the board.

**No equity investment.** Charities cannot raise equity investment.

## Starting a charity

Before starting a new charity please consider the following:

- Are we aiming to create charitable benefit for the public?
- Is there an existing charity we could work with?
- Do we have at least three people willing to be trustees?
- Do we understand the legal requirements of a charity?
- Where will the money come from to run the charity?

You become a charity by carrying out exclusively charitable purposes. The Charity Commission has a number of model constitutions that will help ensure that the way the charity is run is legal (BCVS has these in Word versions). Once an organisation agrees a constitution with charitable objects it becomes a charity in law. When a charity in England and Wales has proof of £5,000 a year it **must** register with the Charity Commission to receive a charity number which will help with fund raising (NB

registration does not make you a charity, many charities are unregistered because they do not meet the £5,000 threshold).

All charities, including unregistered ones, should register with HMRC to be recognised as a charity. This will give you a tax reference number that might help to prove you are a charity until you can obtain a charity number. It will also ensure that HMRC does not charge your organisation with Corporation Tax.

## SOURCES/FURTHER INFORMATION

- (a) BCVS can give individual support and advice on being a voluntary organisation, constitutions, charity law and registration. Also look on our website for other Fact Sheets at: [www.bournemouthcvs.org.uk/advice.asp](http://www.bournemouthcvs.org.uk/advice.asp)
- (b) Charity Commission – Start up a charity  
[www.charity-commission.gov.uk/Start\\_up\\_a\\_charity/default.aspx](http://www.charity-commission.gov.uk/Start_up_a_charity/default.aspx)
- (c) Charity Commission – Charitable purposes and public benefit  
<http://tinyurl.com/yhlldxu>
- (d) Charity Commission CC3 The Essential Trustee  
[www.charity-commission.gov.uk/publications/cc3.asp#d1](http://www.charity-commission.gov.uk/publications/cc3.asp#d1)

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