



Getting Charitable Status

Not all voluntary organisations are charities, however worthy their aims. To become a charity an organisation must have purposes which the law sees as exclusively charitable.

These are broadly covered by the four heads of charity:

- the relief of poverty
- the advancement of education
- the advancement of religion and
- other purposes beneficial to the community.

An organisation which wishes to be a charity also needs to work for the benefit of either the public as a whole or a significant section of the public. This excludes organisations set up for the benefit of the trustees or of individuals and also some pressure groups and campaign organisations.

Arts organisations can become charities if their work is perceived to be of educational benefit to the public and provided the work is of high artistic merit. Encouraging participation in the arts is also recognised as beneficial! An arts charity must adhere to its objects: not producing pure entertainment which has no perceivable educational value or engaging in permanent trading activities.

As the funding climate changes and trusts and other funders become more important an ever growing number of voluntary arts organisations are registering as charities. This briefing sheet has been designed to guide you through the process of becoming a charity. The procedure varies between the four nations of the UK and is different again in the Republic of Ireland. This Briefing gives an overview for each of the nations and also includes contact details for further information.

What are the benefits of charitable status?

Charitable status has a number of benefits for arts organisations including better access to funding and sponsorship (some Trusts and Foundations cannot give to non-charities and cannot claim a tax reduction even if they do); exemption from Corporation Tax, and various other tax reliefs (VAT exemption does not apply as a charity). It also makes your organisation more attractive to individual donors.

What are the responsibilities of Trustees?

Trustees meet regularly to administer a charity. If yours is not a new organisation then they will generally be made up of the Board of Directors. They can either run the charity on a daily basis themselves or employ staff, but even when there are staff the legal responsibility for the running of the charity remains with the trustees.



What?

- Trustees must act reasonably and with a high standard of care. Trustees who cause loss to their charity through lack of care or dishonesty may be required to repay the loss from their own pockets.
- They must never place themselves in a position where personal interest might conflict with their interests as trustees.

Choosing a legal form for your charity

Voluntary Arts operates as a charitable company limited by guarantee and most charities are also registered as companies. However, it is possible to register as an unincorporated charitable association. This is simple to operate provided the terms of its constitution are clear and workable. A charitable company is more complex but offers greater security to its Board of Directors, as discussed in the Briefing on Incorporation.



Registering as a charity in England and Wales

Almost all charities in England and Wales need to be registered with the Charity Commission. It is sensible to consult the Charity Commission before finalising the governing instrument or constitution of your charity. The Commission publishes a form containing questions designed to help determine whether the organisation is suitable to become a charity.

It is important to take great care when completing the form, any inaccuracies can cause delays.

The Commission usually asks organisations to submit the questionnaire along with copies of their draft governing instrument and their financial records. The Commission will also check the name of the proposed charity and if it is the same as or similar to an existing charity you will be asked to change it.

Unless the application is very straightforward, the Commission will consult with HMRC who may recommend further changes to the charity's governing instrument. Once the application has been approved, the trustees can go ahead and set up the charity and send in the completed application form along with a certified copy of the governing instrument. A registration number will then be allocated to the charity and this should be quoted in any future correspondence with the Commission or HMRC.

If you are considering setting up as a charity in England and Wales it is worth getting hold of a copy of the book *Running a Charity* published by Jordan Publishing Ltd (ISBN 978-1784730215).

To find out more or begin the registration process contact:

The Charity Commission (England and Wales)
St Albans House, 57-60 Haymarket, London
SW1Y 4QX

Telephone: 0171 210 4517

<http://charitycommission.gov.uk>



Registering as a charity in Scotland

Before you begin the registration process you will need a written constitution with appropriate wording setting out your charitable aims (ask your solicitor for guidance).

Charitable status is granted by the Office of the Scottish Charity Regulator. They can be contacted at:

2nd Floor, Quadrant House,
9 Riverside Drive,
Dundee DD1 4NY
Tel: 01382 220446
www.oscr.org.uk

For more information about becoming a charity in Scotland contact the Scottish Council for Voluntary Organisations Constitution and Charitable Status guidebook. Contact them at:

15 Mansfield Place,
Edinburgh EH3 6BB
Tel: 0131 474 8000
www.scvo.org.uk



Registering as a charity in Northern Ireland

The Charities Act (NI) 2008 established the Charity Commission for Northern Ireland. It is a non-departmental public body supported by the Department of Social Development. The Charities Act (NI) helped to bring Northern Ireland in line with the rest of the UK in registration and regulation of charities.

The Commission regulates an estimated 12,000 charities operating in Northern Ireland. The Commission is managing registration in stages, only organisations which have been called forward by the Commission, and have received an application password, will be able to apply to register as a charity at present. Any charity in Northern Ireland that have not yet heard from the Commission should prepare for registration now by following the steps outlined on their website.

Charity Commission for Northern Ireland
257 Lough Road, Lurgan
Craigavon BT66 6NQ
Tel: 028 3832 0220
www.charitycommissionni.org.uk

Northern Ireland Council for Voluntary Action (NICVA) 61 Duncairn Gardens, Belfast
BT15 2GB
Tel: 028 9087 7777
www.nicva.org

Useful info for the United Kingdom

For any of the nations in the UK, see GOV.UK's website:
www.gov.uk/setting-up-charity



Registering as a charity in Ireland

The Charities Regulatory Authority is the official register of charities in Ireland. It was established in 2014 under the Charities Act 2009. Similarly to the bodies established in the UK, the Authority maintains a public register of charities operating in Ireland and ensures they comply with the Charities Act and has the power to conduct investigations into wrongdoing at any of these charities.

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The Charities Regulatory Authority can be contacted at:

St. Martin's House/Waterloo Exchange
Waterloo Road, Dublin 4
Tel: 01 633 1500
www.charitiesregulatoryauthority.ie

While registration with the Authority is legally required for all charities operating in Ireland, registration with the Revenue Commissioners is only necessary to avail of specific charitable tax exemption schemes.

In order to be recognised by the Revenue Commissioners as having charitable status a group must complete the CHY1 form and return this to the address below. They must also supply certain documents, including a governing document, annual report and financial accounts and details of all trustees. The Revenue Commissioners Charities Section can be contacted at:

Charities Section, Office of the Revenue Commissioners, Nenagh, Co. Tipperary
Tel: 067 33533
www.revenue.ie

Do you need this publication in an alternative format?

Contact T: 029 20 395 395
E: info@creative-lives.org

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Disclaimer

Reasonable precautions have been taken to ensure that information in this document is accurate. However, it is not intended to be legally comprehensive; it is designed to provide guidance in good faith at the stated date but with accepting liability. We therefore recommend you take appropriate professional advice before taking action on any of the matters covered herein.

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