A guide to Starting up For community and voluntary organisations

Warrington Voluntary Action
Engaging People
Empowering Communities

HOW TO START UP A NEW VOLUNTARY OR COMMUNITY GROUP

A voluntary or community organisation aims to achieve specific aims within the community – usually to help a particular group of people or a cause. With the right planning and support, you can go a long way to making a difference in your local community.

Most types of community group are known in legal terms as an unincorporated association. Unincorporated associations do not need to be registered, nor are they regulated in any way. This factsheet outlines a few practicalities to consider when setting up your new voluntary and community group

Step 1: What do you want to do?

You need to have a good idea of exactly what you intend to do. Here are some questions to consider:

- Will your group offer a service to a community or will it solely benefit its members?
- What are the aims of the group?
- What do you want to achieve?
- What geographical areas are you going to cover?

In order to move onto the next step, you will also need to have gathered at least two other people who are committed to your group.

Step 2: Who will you work with?

If you are providing a service then you may want to identify a specific group of people with whom you are going to work, for example people affected by a specific issue or living in a defined area. If you are going to work with several groups, then you need to think carefully about any possible conflicts of interest. You should also think about what area you will cover - For example, will you only cover a specific local neighbourhood or a whole town or city? Be realistic with your resources and where you can make the most impact. Don't try and overstretch yourself.

Step 3: Are you overlapping with other groups?

Once you have put some consideration on how it might work, you need to research and find out if there are any existing groups that do similar kinds of work in your given area. It is much harder to find support and funding if you are duplicating what other groups are doing. So make sure that your big idea is new or unique in some way before you start. If there are already groups doing the same work, perhaps you could get involved with them.

Step 4: Collaborate with others

If you have a new idea and are ready to go, can you work with other organisations to create something new or benefit from their experience and connections? If you are in a similar geographical area, then you could perhaps share premises and work together for the benefit of both groups.

Step 5: Structure and documentation

An unincorporated association usually has:

- A set of rules or a constitution – though it does not require legal support to prepare this
- A management committee – to make decisions, manage finances and decide on the direction of the organisation
- A shared purpose or activity – usually to help a particular group of people or a cause

As your community group grows and develops, you may consider registering as a charity. To register as a charity, you can consider various legal structures and will need to select the form that is appropriate for you.

As an unincorporated association, you have a greater level of privacy because you do not have to disclose who your members are, how you operate, or how you keep your finances. However, because you have no separate legal entity, members are personally liable for the organisation’s debts or other claims. If you are to employ paid staff, own land or premises, or deal with finances of over £5,000 then you must register as a charity with the Charity Commission.

Step 6: Advice and support

Working in partnership, sharing information and networking with other groups that are doing similar things in your local area, can be an invaluable source of support. You can also seek support from Warrington Voluntary Action (WVA).

LEGAL STRUCTURES FOR THE VOLUNTARY AND COMMUNITY SECTOR

This guide should be seen as a starting point and introduction to legal structures and is not a replacement for professional guidance and support.

If you are thinking about (or are in the process of) setting up a charitable organisation, consider carefully what legal form you opt for. Your legal structure can have a huge impact on any future activities, such as fundraising, trading or contracting because your legal status is closely linked with how you are governed and regulated. It can also affect your legal rights as an organisation.

Voluntary and community groups

If you are a community group, local club, or association that is not registered with the Charity Commission, your type of organisation is known in legal terms as an 'unincorporated association'. This means that even if you have your own name as a group, you are simply a group of people coming together under a shared interest or activity and you have no separate legal identity. Since your organisation is not a separate legal entity in the eyes of the law, individuals take personal liability for any risk or debts and you cannot enter into any legally-binding contracts in the organisation's name.

Registering for charitable status

If your organisation has charitable aims (as outlined in the Charities Act 2006) and is for the benefit of the public, you may need to register as a charity. The Charity Commission regulates and administers all registered charities in the UK, offering much guidance through their website. For more information, see the Registering for charitable status factsheet.

Registering as a charity is not a legal form in itself. In order for your organisation to become a separate entity in the eyes of the law, organisations must become 'incorporated', choosing a legal structure that is right for them. The following 'incorporated' forms introduce the main types of legal structures within the voluntary and community sector.

Company Limited by Guarantee

Many charities choose to become a Company Limited by Guarantee (CLG) because it is relatively straightforward to set up with non-profitable aims.

A CLG is essentially a private company that reinvests any profits back into the company. It has its own members but does not have shareholders or shares – because of this they can apply for charitable status. A CLG means that an organisation becomes incorporated as a legal entity in its own right.

In order to become a CLG you will need to register with Companies House as well as the Charity Commission (this is often done at the same time). In this circumstance you will be subject to company law but will need to comply with the Charities Act and Charity Commission regulations as well.

Industrial and Provident Society (or 'Co-operative)

Industrial and Provident Societies (IPS) are organisations that carry out a business, trade or industry either as a co-operative or for the benefit of the community.

Industrial and provident societies are more expensive to set up than a charity and are generally less common as a legal form because their governance structure is more complex. However, with the co-operative movement itself stemming from Rochdale, industrial and provident societies are still very much in existence in the North West.

There are two different types of IPS. The more common type is the Co-operative Society, which is run for the mutual benefit of its members. In a co-operative, any surplus is still ploughed back into the organisation. The difference is that co-operatives are owned and run by the people who work there, its customers, or by a group of businesses that have come together to form a consortia under the co-operative model. Co-operatives follow the principles as agreed by the International Co-operative Alliance Commission, but are registered through the Financial Services Authority.

The other type of IPS is a society run solely for the benefit of the community, although there is much overlap between the two. There needs to be special reasons why this second type of society should not be registered as a company.

Charitable Incorporated Organisation

The Charitable Incorporated Organisations (CIO) is a new legal structure, regulated by the Charity Commission that is available for new and existing charities. The CIO was introduced through the Charities Act 2006 and it simplifies the process for setting up a charity, because you only need to register with the Charity Commission (rather than having to register with Companies House as well). The CIO structure will be most suitable for small to medium-sized organisations that employ staff or enter into contracts. Whilst many aspects will be the same as running an existing charity there are some important differences and trustees will have additional responsibilities.

Social Enterprise and Community Interest Company (CIC)

Social enterprises have no legal identity or definition, but are a concept that has become increasingly popular over the last decade. Since a social enterprise is not a legal structure in itself and in theory could be claimed under any legal structure, it has caused much confusion among charities and businesses. To address some of this confusion, a new legal vehicle was set up in 2005 in the form of a Community Interest Company (CIC).

CICs are fundamentally a normal business or company, but have some unique and important features to safeguard their social mission. A CIC cannot register as a charity, even though it may be set up for a charitable purpose as defined by the Charity Commission. Many CICs are regulated by Companies House but CICs also have their own CIC regulator that registers, monitors, and regulates them. For more information, see the Social Enterprise factsheet.

Charitable Trust or Foundation

A charitable trust or foundation is sometimes confusing because its name is adopted in many forms. ‘Community Foundation for Greater Manchester’, for instance, carries out some functions of a trust and is a registered charity, but is also a Company Limited by Guarantee. In legal terms, a charitable trust or foundation must be registered with the Charity Commission, but they are unincorporated (so any trustees carry personal liability for any debt).

Most charitable trusts and foundations in the UK focus primarily on grant-making. They do not engage in other activities, or provide direct support to the sector itself, although many are beginning to explore other ways of addressing the economic, social and environmental challenges of the 21st century. Charitable trusts or foundations have a great degree of autonomy. They are extremely diverse – not only in the scale and number of grants made and the type of trust – but in their age, their style of grant-making and in the areas they support.

A charitable trust must be for the benefit of the public, though it may be set up to benefit a specific cause. The Joseph Rowntree Foundation and Charities Aid Foundation are examples of charitable trusts. Charitable trusts differ from private foundations, which allow private individuals or families to control their assets while protecting their family from taxes and creditors. The Chatsworth House Trust in Derbyshire is an example of a private trust.

REGISTERING FOR CHARITABLE STATUS

Charities are a type of voluntary organisation that benefits the public in a way that the law recognises as a charitable purpose.

Why become a registered charity?

Most charities with an annual income of over £5,000 have to register with the Charity Commission. Although charities with an income of £5,000 or less (and some others) don't have to register, they still have to abide by charity law. Many of these smaller organisations still choose to register or to adopt a 'small charity constitution' through the Charity Commission.

The main advantages of charitable status are:

- Funding – charities are often able to raise funds from the public, grant-making trusts and local government more easily than non-charitable bodies. There will be a small start-up cost for setting up your own charity. However, you increase your potential to access funding and are able to enter into contracts in the charity's name, eg to employ staff or own property.

- Representation – registered charities can formally represent and help to meet the needs of the community.

- Accountability – registered charities are regulated by the Charity Commission and have a clear governance structure.

- Tax incentives – you do not usually have to pay income or corporation tax as a charity and there are special VAT treatments in some circumstances. A charity is also exempt from capital gains tax, stamp duty, and any gifts received are free of inheritance tax. There may also be reduced costs for registered charities in terms of accounts and auditing.

Charities are run by 'trustees' – these trustees (also known as a board or committee) are ultimately responsible for the charity.   Most trustees are volunteers, and receive no payment (except out-of-pocket expenses).

When to register

The Charity Commission regulates and administers all registered charities in the UK. A voluntary and community group (or organisation) can become a registered charity through the Charity Commission if:

- It is using an appropriate governing document
- Its yearly income is more than £5,000
- Its purposes or aims are exclusively charitable and for the benefit of the public

The Charities Act 2006 sets out the following definitions of a charitable purpose (taken from the Charity Commission website):

1. The prevention or relief of poverty
2. The advancement of education
3. The advancement of religion
4. The advancement of health or the saving of lives
5. The advancement of citizenship or community development
6. The advancement of the arts, culture, heritage or science
7. The advancement of amateur sport
8. The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
9. The advancement of environmental protection or improvement
10. The relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
11. The advancement of animal welfare
12. The promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services
13. Any other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose

How to register

Before you register, you must check that the aims of your charity fall under the descriptions of a charitable purpose as outlined in the Charities Act 2006 and that it is for the benefit of the public. In order to register to become a charity you then need:

- ✓ To complete the Charity Commission's online application form
- ✓ A governing document – the Charity Commission have their own model constitutions that can be adapted to your organisation
- ✓ A signed trustee declaration (form CC5c) – available from the Charity Commission. You will need at least three unpaid trustees. You will also need to choose your initial members, directors and secretary (if any) and a registered office
- ✓ An annual income of £5,000 or more – if you have an income of below £5,000 and would like to register, you will need to have evidence of your income and a letter or email from the Charity Commission to say that they have agreed to process your application form
- ✓ A bank account – to manage your finances

Once registered, you will have to abide by the Charities Act and must comply with Charity Commission regulations. The main regulations include:

- ✓ The completion of financial returns
- ✓ Approval by the Charity Commission of any changes to your governing document (including any amendments to your objects)
- ✓ Informing the Charity Commission of any changes to your trustees

Risk and incorporated organisations

If your group (or organisation) is thinking of taking on a lease (owning a building), employing members of paid staff, agreeing any contracts in your organisation's name, or managing finances of over £5,000, you must also consider becoming an 'incorporated' organisation as well as a registered charity. See the 'Legal Structures' factsheet for more information on specific forms of incorporation.

An incorporated organisation has an existence of its own (a separate legal identity) from individual members or trustees. The main benefit of 'incorporation' is to limit the amount of risk. With an unincorporated group (or organisation) individual members (such as trustees) are personally responsible for any debt, financial obligations, or problems that your charity incurs. However, trustees may take out trustee liability insurance to limit their liability.

In an ‘incorporated’ organisation, individuals have limited liability, so if the organisation becomes insolvent or is under financial risk, members are not personally liable for any debt. On such an occasion trustees are liable to pay only a fixed amount (from £1 to £5), unless there is a breach of trust or if trustees have made a poor investment without obtaining financial advice.

In the circumstance of either a registered charity or an incorporated company being dissolved (wound up), any remaining assets should be transferred to an organisation with similar objectives after the payment of any debts. (Charities must transfer their assets to other charities). There is usually a rule forbidding the distribution of assets or property, directly or indirectly, among members.

COMMITTEES, BOARD OF DIRECTORS, OR TRUSTEES

A committee is a group of people who have been elected and appointed to make decisions on behalf of a voluntary and community group (also known as a board of directors, board of trustees or management committee).
Any voluntary organisation needs a committee of people who will organise how the group is run. The committee function ensures that decisions are made in a democratic way, with members taking on collective responsibility for the group.

How does it work?

The committee is responsible for holding regular meetings to make sure the organisation follows its aims and objectives in accordance with the law. All committee members have a duty to ensure that the organisation manages its finances properly and that any activities carried out (or decisions made) are in the best interests of the organisation. Even if an organisation employs staff, the ultimate responsibility for the organisation lies with the management committee.

Your governing document (or constitution) should state how committee members are voted onto the committee, for how long they serve, and how regularly they should meet.

Having an induction process for new management committee members can help to engage them from the start. If your organisation is a registered charity, then your organisation must abide by charity law (in this case your management committee members will be known as trustees). Even if you are not a registered charity, you can still follow charity law as good practice.

Sub-committees

If necessary, the committee can organise a sub-committee to take on specific tasks such as finance or organising an event. A sub-committee is a useful way to manage extra work or activities that require special care and attention. A
sub-committee can meet away from the main meetings to tackle a key issue and report back to the main committee.

Honorary officers

Honorary officers are usually the three people who have specific responsibilities as well as being management committee members. The honorary roles are usually Chair, Secretary and Treasurer. Some organisations choose to have a vice or secondary roles as well, in case replacements are ever needed.

- The Chair - The chair is often the spokesperson for the organisation, particularly when there are no paid staff to do so. They also chair the meetings of the management committee. A good chair will be prepared for meetings and be able to answer any relevant questions that may be raised by the committee. It is important that the chair is supported by the rest of the committee and doesn't take on too much of the work.

- The Secretary - The main job of the secretary is to keep minutes of meetings and to distribute them to management committee members. Any other roles that the secretary takes on can be decided by the management committee.

- The Treasurer - The duties of the treasurer can depend on the size of the organisation. In a large organisation with paid staff (who may undertake the day-to-day finance work), the treasurer has more of a planning and authorising role. In a smaller organisation, the treasurer is responsible for keeping petty cash, looking after accounts, cash books and getting cheques signed.

Common problems

- Power – Avoid the pitfall of having one person in control of the organisation and deciding everything that it does

- Laziness – There will inevitably be someone who does not pull their weight and will leave everything to someone else

- The quiet one – Being a committee member can be quite daunting. Make sure new members are not overwhelmed by what they've taken on and are given as much support as possible.

It is important to note that only registered charities are entitled to charity VAT reliefs. Not all non-profit making organisations are registered charities, though there are some VAT reliefs and exemptions available for certain types of not-for-profit organisations, subject to the HM Revenue & Customs department.

GLOSSARY

Unincorporated association – A group of individuals coming together to achieve specific aims within the community. At this point your organisation has no separate legal identity

Charity Commission - the regulatory body for all registered charities

CIC Regulator - the regulatory body for Community Interest Companies

Companies House - the regulatory body for companies

Company Limited by Guarantee - a private, incorporated company that reinvests any profits back into the company

Incorporated - A separate organisation or business with its own legal identity

Articles of Association – the governing document for an incorporated organisation, which now includes the Memorandum of Association

Board of Trustees – the governing body of a registered charity

Board of Directors – the governing body of a company

Constitution – governing document or set of rules

Chair – lead role in the organisation, the one who chairs meetings

Treasurer – the person who is responsible for the group's finances

Secretary – the person responsible for minutes and communications

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