

HOW?

Becoming a registered charity

What is a registered charity?

A registered charity is an organisation that:

- has been set up to benefit the public or a substantial section of it
- has been accepted as charitable by the Charity Commission and formally registered with it
- sends information to the Commission annually or as requested

In return the charity has a charity number and receives tax and other benefits from the state.

A charity's main features are that

- it is for public benefit, not private gain
- is not-for-profit
- can only trade if it is directly connected to its charitable purpose
- should not exclude people from its services by charging too much. Any charges that are made must be reasonable.
- makes its work and benefits widely available. Some organisations are not charitable as the work only benefits their members, for example self-help groups and cooperatives.
- is overseen (usually) by an unpaid board of trustees who do not benefit personally from the charity
- usually involves other volunteers
- may have paid staff to run its activities .
- can campaign only if relevant to its objects and not in a political way

Charitable aims and objectives

To register as a charity your organisation's aims and objectives must fall into one of the categories of charitable activity. This is recognised by law, and was first defined in 1601. Charity law has been slowly refined ever since, but the 400 year old categories, known as the Four Heads of Charity, still apply today. In May 2004, the government introduced a new draft charities bill, which is likely to become law early in 2005, which will increase charitable aims to ten.

So for the time being, if your organisation's work falls outside the four heads of charity it will not, no matter how socially useful or praiseworthy, be able to register as a charity.

The four heads of charity.

The relief of poverty. Poverty has been defined quite broadly over time and can include people who are ill, disabled, old and in need or generally suffering deprivation. Poverty charities, unlike all others, can benefit a specific group of people rather than the public at large.

The advancement of education. There is no precise definition of education and it is interpreted widely. It includes organisations such as universities and private schools, training, learning, research, playgroups, out of school activities, coaching and sports education, community arts and city farms.

The advancement of religion. Any religion with a belief in and a reverence for a god and whose activities will benefit the general public is eligible for charitable status. Activities such as maintaining places of worship, providing music, translating religious material and missionary work are also classed as charitable.

Other purposes beneficial to the community

This is the broadest head and the one that has changed most to reflect our changing society. This could include relieving unemployment, providing community facilities such as halls and community centres, promoting racial harmony and equality, urban and rural regeneration, publicly available sports facilities and conserving the environment. You will have to show that your organisation is providing a clear public benefit.

What are the benefits of registering as a charity?

Public recognition - charitable status gives an organisation respectability and reassures the people that you are working with or seeking money from.

Tax relief - charities do not pay income tax or corporation tax, amongst other benefits. They can also claim back the tax paid on donations that are made to them.

VAT relief - charities are liable to pay VAT on most things but can pay at a lower or zero rate on some building works, on providing disability equipment and on heating and lighting.

Registering as a charity

Council tax - charities receive a mandatory 80% off the council tax bill for any property they occupy. The local authority has the power, if it chooses, to waive the remaining 20%

Funding - registered charities may find it easier to get grants from some funders, although most are now prepared to make payments to charitable organisations through a third party charity such as High Peak CVS.

Free advice - registered charities can get free advice and support from the Charity Commission about being a charity.

What are the disadvantages?

- Charity law can limit your activities, such as political campaigning
- You can only trade in limited circumstances, related directly to your objects
- You must provide the Charity Commission with certain information each year, such as annual reports and accounts. There are also additional rules and requirements to meet
- Trustees cannot be paid other than for out of pocket expenses so charities are unsuitable for cooperatives and similar worker controlled organisations

Applying for registration as a charity

Before you can register, your organisation must have:

- exclusively charitable objects and be for the public benefit
- a charitable constitution

at least one of the following:

- income of over £1,000 per annum or
- a permanent endowment or the use or occupation of land, including buildings

If you think this applies to your organisation, you are now legally obliged to register as a charity.

You also need to be clear that there is a need for your organisation and that it will succeed

- what activities do you want to run and are you able to provide them?
- will you need anyone with special training or qualifications?
- if you are planning to work with children or vulnerable adults do you have systems in place for making sure that everyone that needs to be will be checked?

- is anyone else in the area already doing something similar?
- will you be able to raise the money you need?
- are you absolutely sure that you and your other committee members are ready to take on the job of running a charity?

Application pack

To apply, you will need a copy of the application pack from the Charity Commission (contact details at the end of this information sheet). The pack contains information booklets, application form and declaration to be completed by your first trustees (see below). High Peak CVS can help you to complete the form. You should copy the application form to use for a draft before filling in the final form.

You will be asked for a range of information in the application form:

Name of the charity

You cannot pick a name that is already being used by another charity. High Peak CVS can help you to check the names of charitable organisations and companies or see the Charity Commission website. The Commission will also reject anything that could be misleading or offensive. Certain words cannot be used by charities without the express permission of the Charity Commission, such as Royal, English, Registered, Windsor.

Area of benefit

You will be asked what geographic area you want to cover. It could be High Peak, Derbyshire, a single ward, a parish, an estate, anywhere that people can recognise and identify. You would normally add '...and surrounding area' to allow flexibility. And, don't forget you may want to grow in the future.

What are your objects?

Your organisation's objects must be exclusively charitable as defined by the four heads of charity. The objects are your overall aims and they are different to the activities you will be carrying out. For example, your activity may be running an after school club, but your object would be "to advance the education of children under the age of 16."

Registering as a charity

Charitable objects must always relate to one or more of the four heads, such as:

- "to give advice and information to disabled people"
- "to promote community participation in healthy recreation by the provision of facilities for playing football"
- "to relieve poverty and the charitable needs of single parents living in the High Peak"

Your activities

The form asks you to provide details about the activities your organisation carries out now and hopes to carry out in the future. They want to know how you will achieve your object(s). For example by providing a community centre, running English classes, maintaining the sports grounds and running a playgroup. This is a very important section and you can (and should) include accompanying information that gives a flavour of what you do (see below).

Financial information

You will need to give details of the organisation's bank account and provide basic financial information. This can be either a set of accounts, if you have been running for long enough, or details of the income you hope to get and what you plan to spend it on.

You should include information on how you have already raised money, details of any funding applications made and whether any money has been pledged to the organisation for the future. Please note that the Charity Commission will not register an organisation that has debts without a clear achievable plan of how you will clear them.

Trustees

To be a charity your members will have to elect a committee that is responsible for running the organisation. In a charity these committee members are known as trustees. They have very clear legal responsibilities, duties and liabilities and the Charity Commission asks for their details. There are some people who cannot be charity trustees, including anyone who has been convicted of an offence involving dishonesty or who is an un-discharged bankrupt. There is also a lower age limit of 18. See the Charity Commission booklet CC3 for more information on this. You will need at least three people willing and able

to be trustees before you can register. They all need to sign the declaration included in the registration pack.

Constitution

You will need to include a copy of your constitution, accepted and formally adopted by all of your members (not just the people on your committee).

The chair or secretary should write on it 'I certify that this is a true copy of the original' and then sign and date this statement. You need to include a copy of the minutes from the meeting where it was adopted. If you do not already have one, there is a HOW? Fact sheet offering general advice on drawing up a constitution. To be charitable your constitution must:

- have charitable objects
- make it clear that trustees cannot normally receive payment for their work
- state that, if the charity is wound up, any assets are given to another charity

Additional information

It may help your application if you can include some additional information, for example

- Brief details about the trustees background and experience, particularly details of anything that is going to help the work of the committee and/or the organisation
- A copy of a signed statement from each trustee that they are not disqualified from standing as a charity trustee
- Any letters of support you may have for your work, either from individuals or from relevant organisations

If you are offering a service that may need a particular skill or qualification you should provide details of it and explain how the organisation will make sure that relevant standards are maintained. How do you publicise your work or service? Do you have copies of any leaflets, brochures and posters to include? If you have been mentioned in the press, include copies of cuttings. If you produce information or guides etc include copies. If the information is going to be of a specialist nature explain how the writers are qualified to produce it.

What happens next?

Once you have sent off the application, expect to

Registering as a charity

wait four to twelve weeks for an initial response. You may be told at this early stage that you have been registered and will be issued with your registration number. Congratulations!

However, it is not unusual for the Commission to ask for more information or clarification or to make suggestions. They may, for example:

- suggest changes to your objects clause to make it clearer or more obviously charitable
- suggest changes to other clauses in your constitution
- want clarification about your activities and your ability to carry them out
- ask for copies of other information such as a Child Protection Policy if you are working with young people

Remember that if the Commission suggests changes to your constitution, these will have to be agreed at a meeting that your whole membership has been invited to. You will need to include the minutes of this meeting when you return the changed constitution.

The Charity Commission may also reject your application; one in four applications are rejected. This can be for a number of reasons, including .

- they have decided your objects aren't exclusively charitable
- you are a self help group or a club and don't provide a wide enough public benefit
- you are a political or campaigning organisation
- you are carrying out activities exclusively on behalf of a statutory body
- there are suspicions about the trustees or their motives for setting up a charity

If you are unhappy with a decision of the Charity Commission you may ask for it to be referred to the Board of Charity Commissioners.

Information from the Charity Commission

The Charity Commission has a number of relevant publications for organisations thinking about registering as a charity

Registration pack - all the forms you need to register as a charity

CC3 - Responsibilities of charity trustees - if you are currently a member of your organisation's management committee, you will (subject to election) be known as a trustee of the new charity.

It is essentially just a different name for the same role but charity trustees do have some extra legal responsibilities and duties. This leaflet answers some of the more common questions asked about being a trustee

CC21 - Registering as a charity- explains what a charity is, how it is set up, when you need to register and how you can become registered

CC22 - Choosing and preparing a governing document - gives guidance on the different types of constitution (governing documents) a charity might use. The Charity Commission also has model constitutions which organisations can use to save time when registering. These are now available electronically on the Charity Commission website- you fill in your organisations details and print a copy off. The Commission expects that you will shortly be able to apply for registration on-line.

CC60 - Hallmarks of a well-run charity - this publication sets out what the Charity Commission expects from a well run charity .

All of the above information can be downloaded from www.charitycommission.gov.uk

Or you can order a hard copy from:
Charity Commission
2nd Floor, 20 Kings Parade, Queens Dock,
Liverpool L3 4DQ Advice Line on 0870 333 0123



Who are we?

High Peak CVS works to ensure that local voluntary and community groups can access as much support, advice and information as possible. We help groups in many different areas, such as funding, charity registration, practical services including printing , training and links to training and with legal issues. We have resources, including a meeting room, computers and OHP for use by groups.

To find out how we can help you, please contact us on 01663 735 350 or email hello@highpeakcvs.org.uk
Visit us at www.highpeakcvs.org.uk