

COMMUNITY ACTION: MK

Registering as a Charity

Introduction

This information is for groups who are considering becoming a registered charity.

The law on charities and what organisations can be 'Charities' changed when legislation came into force in 2006.

Under the new rules, if your activities are charitable you *must register* if your annual income is over £5000 a year or more. **If you do not have this amount of income, the Charity Commission will not necessarily register you.**

Are you a Charity?

The 2006 Charities Act introduced more categories about what is defined as 'charitable'. The new categories are numerous but more tightly defined:

1. the advancement of education
2. the advancement of religion
3. the advancement of health or the saving of lives
4. the advancement of citizenship or community development
5. the advancement of the arts, culture, heritage or science
6. the advancement of amateur sport
7. the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
8. the advancement of environmental protection or improvement
9. the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
10. the advancement of animal welfare
11. 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;
12. any other purposes charitable in law

Category 13 is intended to cover existing charities which might have problems fitting into the other new categories.

Public Benefit

The test that a charitable activity must be 'For Public Benefit' is now applied more tightly. Now all Charities will have to meet this test by showing the organisation really does benefit a 'wider community' and is not just for the benefit of the 'active membership'. Guidance on the criteria used to assess public benefit is on the Charity Commission website

<http://www.charitycommission.gov.uk/Library/guidance/publicbenefittext.pdf>

Next steps

If you think you fit the criteria set out by the Charity Commission, you need to also consider why you want to be a Registered Charity.

These are the basic questions you need to answer.

- *Why* do we need a new Charity? What is the big picture in terms of your goals and values? What difference will it make, and to whom?
- *What* can we achieve in a realistic period (over next few years for example)
- *How* will we set up practical work to do what we want to do (actual projects over months or a year)

You also need to check that there aren't charities in Milton Keynes doing the same thing as you as the Charity Commission is less likely to grant you charitable status if there is any existing organisation.

Registration

If you decide a new charity is needed, you then these are the basic steps towards registration

- Set out your aims and objectives, *all* of which must fall within one or other of the legal categories of 'charitable activity'. You must demonstrate that your proposed activities lead to a 'Public Benefit'.
- Set out some clear rules and procedures for running your organisation, and demonstrate that using these rules and procedures will make sure you can stick to these aims and objectives and keep control of the money you raise.
- Register with the Charities Commission (unless you fall within some 'excepted' categories, such as being a very small charity, in which case other rules apply).

Advantages and Disadvantages?

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 the Charity Commission

The main disadvantages of being a charity are:

- There are restrictions on what you can do, both in terms of types of work and ways you can operate
- Your aims must be exclusively charitable
- There are limits on your political or campaigning activities
- There are strict rules about trading by charities
- Trustees cannot receive financial benefit from a charity unless it is stated in your governing document (this includes salaries, services etc)
- Trustees must avoid any situation where their personal interest conflicts with their duties as trustees
- There are certain reporting obligations as you are accountable to the Charity Commission
- Charity status is a recognised legal status, but it does not provide a separate legal entity in the way that incorporation does.

Visit the Charity Commission website for more details:

www.charitycommission.gov.uk

Trustees

You need to think about who you will put forward as Trustees or Board Members. They need to be credible, not only for their knowledge and enthusiasm, but also as people who can demonstrate competence and integrity (what the Charity Commission deems as 'fit and proper' people).

Make sure that the Trustees know what they are signing up for, and have robust and clear procedures and policies for them to follow.

Accounts

The annual accounts will need to be drawn up properly, and reports submitted annually. The Charity Commission will require reports in a specific format which will not necessarily be the form most useful for you in the day-to-day running of your organisation. You may find that you are faced with extra costs and administrative work to meet the requirements of being a charity.

Help!

Contact Community Action: MK for help Support@CommunityActionMK.org

Visit the Charity Commission website www.charitycommission.gov.uk who have information on all aspects of running a charity

A copy of the Charity Commission booklet 'Registering as a Charity' is available online.

http://www.charity-commission.gov.uk/FAQS/Starting_a_charity/113.aspx

This information sheet has been produced by Community Action: MK and was last updated in 2015. Community Action: MK has taken all reasonable precautions to ensure that information contained in this document is accurate, but stresses that the content is not intended to be legally comprehensive.