

Thinking of forming a charity? Some points to consider

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Briefing Note

There is a strong tradition of charitable giving and philanthropy in the UK. People give for many reasons, including compassion, personal experience of a particular cause, the desire to make a difference in society, and tax incentives. There are many ways of supporting charities, one of which is to form a charity yourself.

Establishing a charity allows the donor to support the specific purpose or purposes in which they are interested, to demonstrate their interest and concerns both now and in the future and, if desired, to maintain a degree of strategic control as a trustee of the charity. Many also like to involve their families, and establish a pattern of family giving which can continue after they have died.

What will the charity do?

There are many charitable purposes, some of which are familiar to everyone, such as relief of poverty, advancement of education, health or the arts. A charity may be formed for one particular purpose, multiple specified purposes, or simply for “general charitable purposes”. The latter is commonly used to support a variety of causes and gives maximum flexibility.

What legal structures should I consider?

Charities can take a number of legal forms, the most common being the charitable company limited by guarantee, the charitable incorporated organisation (CIO) and the charitable trust. Which legal structure is most appropriate depends on the work to be done by the charity and how the charity will raise funds. If it is simply a grant-making organisation, a trust may be sufficient. However, if it is to enter into contracts, own land, have employees, or carry out any other activity which involves an element of risk, a charitable company limited by guarantee or CIO is likely to be more appropriate.

What ongoing administration would there be?

As with every organisation, charities must keep records and produce accounts and these must normally be filed at the Charity Commission (and Companies House if the charity is a company). Sometimes you may have to file a return with HMRC. The administrative burden varies according to the legal structure, the size of the charity, and type of activity undertaken. For a purely grant-making organisation, it is quite usual for the trustees to meet a few times a year to decide what donations to make. The administration of such a charity could well be undertaken by the trustees themselves or they may wish to employ an administrator, if the cost is justified, or use a trust administration service which undertakes the work for a modest fee. Grant-making trusts generally receive regular requests for grants from other charities because of the accessibility of the Charity Commission’s website.

What can we give the charity?

Donations to charities can be in the form of cash, land, shares or any other property. To register a new charity, the Charity Commission require a minimum annual income of £5,000, unless the charity will be a CIO, when there are no minimum income requirements.

A donor may typically “test the water” by settling a relatively modest amount in the first instance, and then adding more, perhaps by way of a Gift Aid donation, and possibly eventually by Will. There are no restrictions on who may donate to the new charity. One attraction for different family members of adding to a charity in this way, as contrasted with giving the money direct to a national charity, can be that it enables family members and trustees, who may support those national charities with grants from the family charity, to keep an eye on the way the national charities are performing in terms of their own policies, administrative costs, and other areas which can sometimes worry individual donors.



What are the tax benefits?

Gift Aid can be claimed on charitable donations of cash, listed shares, land, buildings and securities to maximise the benefit to the charity and may reduce the donors' taxation liabilities. Gifts to charities are also exempt from capital gains tax, so gifts of non-cash assets can also have beneficial tax consequences for donors. Legacies are free from inheritance tax.

What if I want to keep my involvement private?

Charitable giving undoubtedly enhances the public profile of an individual. The donor may encourage other members of the family to donate to the charity, thereby encouraging philanthropy in the family, enhancing the reputation of the family, and supporting and furthering the charity's purposes. The name of the charity can be chosen to demonstrate strong links with the individual or the family.

Conversely, many donors wish to keep donations anonymous, in which case the name of the charity need not have any connection with the family. In this situation the public address of the charity may be that of an administrator, to retain the privacy of

the connection. The charity's accounts will be available to the public, but do not need to identify individual donors. The Charity Commission publish the names of trustees on their website, but not addresses. If you want to maintain absolute privacy, you may want to appoint others as trustees and not be a trustee yourself.

Who should the trustees be?

The Charity Commission recommend a minimum of three trustees, whatever legal structure is used. There are few restrictions on who can be a charity trustee. When setting up a new charity, often the initial donor will also be a trustee, to provide direction for the charity, at least in its initial stages. The donor may encourage family members to act as trustees, further linking the charity with the family. It is important to be able to manage conflicts of interest, so sometimes you may need independent trustees too.

Set up costs

Costs vary depending on the legal structure adopted and the type of work the organisation will be conducting. Please contact one of the team for an estimate of costs.

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