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# Registering as a charity

**Many charities operating in England and Wales - though not all - will need to register with the Charity Commission. There are some important issues to consider beforehand in order to make the process a smooth one.**

### Is setting up a charity the right approach?

Firstly, it is essential to check that setting up a charity is the best option in your circumstances. On the positive side, registered charities usually enjoy a special tax status and benefit from certain tax exemptions and reliefs.

However, there are some compliance burdens, and registered charities must comply with specific rules and regulations. There are also some restrictions, for example registered charities must not have political objectives or participate in political lobbying. You must also check that your organisation would meet the charity criteria. For example, under the Charities Act 2006, all charities must have aims which are demonstrably for the public benefit. Two principles (plus some sub-principles) must be met:

1. There must be an identifiable benefit or benefits.
2. Benefit must be to the public or a section of the public (as opposed to a specific individual).

### Do I need to register my charity?

If you decide that setting up a charity is the right way forward, you should check whether you need to register it with the Charity Commission. Not all charities need to do so. For example, you may not need to register if the charity is part of a larger organisation. Local branches of charities only need to register if they are independent; that is if they control their own funds. Note that the Charity Commission will not register charities with annual income less than £5,000.

Some charities are 'excepted' or 'exempt' from registering. 'Excepted' charities include some churches and chapels, and Scout and Guide groups. 'Exempt' charities, which are registering as a charity supervised by another regulator, typically include universities in England, industrial and provident societies, many national museums and galleries, the governing bodies of voluntary and foundation schools, as well as the new converter academies.

### How do I register?

All applications to register with the Charity Commission are made online at [http://www.charitycommission.gov.uk/Start\\_up\\_a\\_charity/Register\\_a\\_new\\_charity/](http://www.charitycommission.gov.uk/Start_up_a_charity/Register_a_new_charity/)

You will need to provide details of the charity, such as its name, contact details, registration eligibility criteria (for example, evidence of gross annual income) and other finance and funding information. Any registration application must demonstrate that the organisation's aims are charitable for the public benefit. You must therefore state the 'objects clause' exactly as worded in the charity's governing document, setting out its aims. Full details must be given of how the aims are already being carried out, or will be in future. Information must also be provided to show how the organisation meets the

principles of public benefit. Additional information is required where charities work with children or vulnerable adults. Further sections of the application look at the extent and nature of any private benefit, and gather details of the trustees.

### How does the Charity Commission assess whether the public benefit requirement is met?

The Charity Commission will decide, using the information you provide, whether the aims are charitable and for the public benefit. In most cases this is obvious, particularly where organisations have used well-known charitable objects and an approved governing document. If the aims have some unusual features, the Commission will assess the information provided against the principles outlined in its guidance on charitable purposes. In some circumstances, it may ask for further clarification of the aims.

### Should I incorporate an existing charity as a company?

Choosing the right structure depends on a number of factors. For example, it may be more appropriate to operate as an unincorporated association if the charity is relatively small, and/or where members play an active role in the charity's activities and governance. Incorporation as a company may be appropriate for larger charities with employees, and those that enter contractual agreements. Note too that trustees of an unincorporated charity have personal liability for debts incurred on behalf of the charity. Trustees and directors of incorporated charities have the protection of limited liability.

### What's my next step?

It is important to prepare carefully before deciding to set up and register a charity. This includes drawing up a business plan to check if operating as a charity is a viable option. Please get in touch for help and advice on business planning and any other aspect of setting up a charity.

**For further information regarding registering as a charity, please contact one of our Charity & Not for Profit experts [Iain Mawson](mailto:charities@mapartners.co.uk) or [Frank Shippam](mailto:charities@mapartners.co.uk) on 01603 227600 or email [charities@mapartners.co.uk](mailto:charities@mapartners.co.uk)**

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