

Charitable companies

Disclosure requirements

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Charitable companies - disclosure requirements

Introduction

Charitable companies limited by guarantee are governed by both company law and charity law. Both areas give rise to obligations on charitable companies as regards the corporate and other information they must disclose to the public.

It is important that charitable companies comply with all these requirements because non-compliance is an offence for charities and their director-trustees under both company and charity law.

Companies (Trading Disclosures) Regulations 2008

These regulations replace the requirements that were previously in force under the Companies Act 1985, and also extend them. Therefore it is important that existing charitable companies ensure that they comply with the revised rules, as well as new charitable companies.

Registered name

The registered name (i.e. the full name with which a company has been incorporated - including the word "Limited" if the charity in question has not taken advantage of the Companies Act provision that allows it to omit it from its name) must be displayed at the following places:

- its registered office
- any place at which it keeps available for inspection any company record (for example, its statutory books)
- any location at which the company carries on business.

In this context, the registered name must be positioned so that it may be easily seen by any visitor to that office place or location and must be displayed continuously (although if any venue is shared by six or more companies and names are displayed electronically, such company is only required to display its registered name for at least fifteen continuous seconds at least once in every three minutes).

Communications

A charitable company must disclose its full registered name (including the word "Limited" if the charity in question has not taken advantage of the Companies Act provision that allow it to omit it from its name) on all of its communications (including electronic communications) as follows:

- business letters, notices and other official publications
- emails
- bills of exchange, promissory notes, endorsements and order forms
- cheques
- orders for money, goods or services
- bills of parcels, invoices, receipts and letters of credit
- applications for licences to carry on a trade or activity
- all other forms of business correspondence and documentation

- the charity's website.

Business letters, order forms and website

A charitable company must also disclose the following information on its business letters, emails, order forms and website:

- the part of the United Kingdom in which the charity is registered as a company (which for all charities registered with the Charity Commission will be England and Wales)
- the charity's registered company number
- the address of the charity's registered office
- the fact that the company is a limited company (although this is only required if the charity in question has taken advantage of the Companies Act provisions that allow it to omit the word "Limited" from its name).

Trustees' names

Where a charitable company's business letterhead includes the name of any trustee (other than in the text of the letter or as a signatory), then the name of every trustee of that charity must also be included in the letter.

Charities act 1993

Section 5 requirements

Section 5 of the Charities Act 1993 requires any registered charity with a gross income in its last financial year of over £10,000 to clearly state in legible characters that it is a registered charity on the following documents:

- all notices, advertisements and other documents issued by or on behalf of the charity and soliciting money or other property for the benefit of the charity
- in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed on behalf of the charity
- in all bills rendered by it and in all its invoices, receipts and letters of credit.

Solicitations can be express or implied and the requirement must be complied with whether the money or other property is being solicited for payment or not.

Section 68 requirements

This section specifically relates to charitable companies and imposes an obligation on a charitable company whose name does not include the word "charity" or "charitable" to state the fact that it is a charity on the following documents:

- business letters, notices and other official publications
- emails
- bills of exchange, promissory notes, endorsements and order forms
- cheques

- orders for money, goods or services
- bills of parcels, invoices, receipts and letters of credit
- applications for licences to carry on a trade or activity
- all other forms of business correspondence and documentation
- the charity's website
- conveyances purporting to be executed by the charitable company.

Please note that there are specific requirements for charities who are registered with the Office of the Scottish Charity Regulator ("**OSCR**") which are contained within the Charities References in Documents (Scotland) Regulations 2007. Any English and Welsh charitable companies limited by guarantee who are also registered with OSCR will need to ensure compliance with these regulations, as well as the requirements for English and Welsh charities.

Summary

It is an offence to breach any of the requirements mentioned above, and charity trustees should ensure that all documents issued by their charity, or on behalf of their charity by a third party (including professional fundraisers and commercial participators), comply with these requirements.

The disclosure requirements under both companies and charities legislation are not wholly consistent and can require a significant amount of information to be included on a wide range of documents.

Given that non-compliance is an offence, we recommend that the best practice for charitable companies is to have a clear statement on all letters, emails, websites and other external corporate documents along the lines of the following:

- [Limited], a charitable company limited by guarantee registered in England and Wales with company number ● and registered charity number ●, registered office address: ●

Further advice

This note provides general guidance only. You should not rely or act upon it without taking advice on your specific circumstances.

For further information please contact Con Alexander (calexander@vwv.co.uk / 0117 314 5214) or your usual contact at Veale Wasbrough Vizards.

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