

Setting up a new charity

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Con Alexander
Partner
E-mail: calexander@vww.co.uk
DDI: 0117 314 5214
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Background

The legal process for setting up a new charity can sometimes seem over-complicated and expensive. At the same time, the "low cost" option of using an "off the shelf" company can mean creating a charity that does not have the right charitable objects or the right governance arrangements, often leading (in our experience) to potentially significant problems further down the line. This is becoming increasingly problematic as the legal and regulatory framework which governs charities becomes more complex.

Our education and charities team specialises in setting up new charities. We use our extensive experience in the charities sector to help our clients achieve their aims quickly and cost-effectively.

There are a number of different legal structures that can be used to set up a charity. Further guidance on the options is available.

Where we are asked to set up a new charity constituted as a company limited by guarantee, our aim is to deliver to you a company which has been registered as a charity by the Charity Commission and HM Revenue & Customs, together with the information the charity and its trustees will need in order to start operating.

Scope of our services

We adopt the following approach in order to achieve this aim:

- we will draft the constitution for the charity in line with your initial instructions and send it to you. We will also send you a note which explains the more important provisions of the draft constitution and highlight the issues on which we will need your instructions in order to finalise the draft
- you will identify the individuals who should act as the first trustees of the charity. We recommend you identify a minimum of two trustees who can act at the outset and apply for the charity to be registered. More trustees can be identified and appointed subsequently - you do not need to have a full complement at the outset
- we will provide you with some information about charity trustees' duties and liabilities, so that you can brief prospective trustees on their role and duties
- we will also provide you with a draft Charity Commission application form and trustees' declaration. You will need to check and complete both forms. We will also provide you with a form of letter confirming that the charity has pledged funds of at least £5,000. We will send this to the Commission as part of the application for registration
- once the charity's constitution has been finalised and you have identified the first trustees, we will arrange for the charity to be incorporated as a company. We will provide you with the documents which will need to be signed by the first trustees in order to achieve this. You will need to decide on a registered office for the charity. This is the address that Companies House will send all correspondence to
- once the charity has been incorporated and the Charity Commission application form and trustees' declaration have been finalised, we will submit the charity's application for registration to the Charity Commission
- the Commission may ask for further information about the application. If so, we will liaise with you in order to answer their questions

- registration can take anywhere between 30 and 90 days, depending on how busy the Commission's registration team is and whether they ask for further information in relation to the application
- once the charity has been registered by the Commission, we will apply for registration by HM Revenue & Customs. Provided HMRC register the charity, it will qualify for the range of exemptions and reliefs from tax and VAT available to all registered charities, including repayments of tax under gift aid in respect of donations. HMRC will make repayments of tax in respect of qualifying donations made to the charity from the date on which the charity is registered, but not before. Before registration by the Charity Commission, therefore, it is likely to be better for donors to pledge funds to the charity, with their pledged donation to follow after registration has taken place
- we will provide you with some guidance in relation to the statements the charity will need to make on its letterhead and other documents in order to comply with the Companies and Charities Acts.

Other services

We can also provide you with:

- a set of draft minutes for the trustees' first meeting. These will deal with a range of housekeeping issues, such as opening a bank account, appointing professional advisers and changing the date to which the charity should make up its accounts
- a set of statutory books for the charity. These will contain the register of directors and other corporate information that should be kept in line with the requirements of the Companies Act 2006.

We also offer a registered office service, as part of a wider range of company secretarial services or as a stand alone service.

Charges

If you would like details of our charges in relation to setting up a new charity (whether as a company limited by guarantee or using another legal structure), please contact Con Alexander (0117 314 5214, calexander@vwv.co.uk), or your usual contact at Veale Wasbrough Vizards.

In many circumstances we are able to offer fixed fees for the work we do.

Added value

Once your charity has been established, its trustees and staff will have access to our range of added value services, including:

- updates on charity law and regulation, charity governance, employment issues and other relevant areas
- seminars on a wide range of legal issues, including charity governance
- training for trustees and employees on charity governance and other issues.