



Setting Up a New Charity

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 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 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 in our briefing note *Legal structures for new charities*.

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:

- You will propose a name for the charity and we will check that this is available both at Companies House and at the Charity

Commission, and that we do not need to obtain the consent of any authority to use this name (for example, if you wish to use the word ‘charity’ or ‘charitable’ in the company’s name, the written consent of the Charity Commission is needed before Companies House will incorporate the company).

- 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 highlights 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.



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What Others Say...

“Proactive, technically competent and hands-on - the team is very commercial and willing to get stuck into the issues.”

Chambers & Partners

“Deeply knowledgeable, technically perceptive, commercially aware and willing to go the extra mile.”

Chambers & Partners

“The team balances technical knowledge with pragmatism.”

Legal 500

“The team does not forget that it’s about relationships and people.”

Chambers & Partners

- 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, which is the address that Companies House will send all correspondence to.
- Once the charity has been incorporated, we will prepare the online application for charity registration. The key part of the application is the statement of the charity's activities, i.e. what it will do in practice to achieve its charitable objectives. We will work with you to draft this. Once the application has been finalised, we will submit it to the Charity Commission along with a declaration form that the initial trustees will need to sign. You will need to have opened a bank account for the charity and let us have a bank statement showing that the charity has at least £5,000 (the minimum income requirement for registration) so that we can send this to the Commission with the application.
- The Commission aim to provide an initial response within 15 working days. If the Commission are satisfied that the organisation is charitable, they will pass it for registration which can take a further week. We aim to pre-empt any questions the Commission may have in relation to an application when drafting the statement of activities, but the Commission do sometimes ask for further information in their initial response. If further information is requested, we will liaise with you in order to answer the Commission's questions.
- Once the charity has been registered by the Commission, we can assist you to apply for registration by HM Revenue & Customs. This involves submitting an application form not dissimilar to the Charity Commission's application form (signed by all the trustees). 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.
- 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.

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 or your usual contact at VWV.

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.

