

# Starting a new charity

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Guidance for organisations or individuals  
thinking of setting up a new charity



## The Charity Commission for Northern Ireland

The Charity Commission for Northern Ireland is the regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Communities.

### Our vision

To deliver in partnership with other key stakeholders in the charitable sector “a dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission’s effective delivery of its regulatory role.”

Further information about our aims and activities is available on our website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

### Equality

The Charity Commission for Northern Ireland is committed to equality and diversity in all that we do.

### Accessibility

If you have any accessibility requirements please contact us.

### Online or in print

If you are viewing this document online, you will be able to navigate your way around by clicking on links either within the contents page or text. We have produced a glossary that provides further information, definitions and descriptions of some key terms. The words in **bold green type** indicate words that are found in the glossary towards the end of this document. If you are reading the document online you can click on the word and it will link you to the definition in the glossary. The words in *pink italics* indicate other guidance or databases, links to these can be found on the **Useful supporting documents** page.

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# Flowchart

For key things to consider when you are thinking of setting up a new charity see [Section 3](#).

[Section 4](#) will help you understand the importance of ensuring that your charity's purposes reflect what it was set up to do, which must be for the public benefit.

[Section 5](#) will help you understand the various structures a charity can adopt, the difference between them, and consider governance arrangements.

Key things to consider when choosing a name for your charity can be found in [Section 6](#).

[Section 7](#) gives advice on how to prepare your charity for future growth, developments and challenges.

[Section 8](#) has an introduction to charity registration in Northern Ireland and the annual reporting requirements for charities.

## Section 1: Overview

Charities in Northern Ireland play an important role within local communities, where they receive high levels of public trust and confidence.

There are many reasons why individuals or organisations may wish to set up a new charity. This guidance sets out the legal requirements and best practice for anyone thinking of setting up a charity.

The guidance is aimed at helping you to consider:

- whether setting up a charity is the best way to achieve your purpose
- legal obligations on charities
- what type of charity to set up
- what rules you may want to set for your charity
- naming your charity
- planning for the future
- charity registration.

It is important to note that any organisation which is a charity in Northern Ireland must register with the Charity Commission for Northern Ireland (the Commission). Registered charities must comply with a number of legal responsibilities set out in the **Charities Act (Northern Ireland) 2008** as amended by the **Charities Act (Northern Ireland) 2013** including reporting to the Commission on their activities, governance and finances on an annual basis.

## Section 2: About this guidance

### 2.1 What does this guidance cover?

This guidance provides a general introduction and overview of the key factors to be considered when setting up a new charity. It highlights important aspects of the law that governs charities in Northern Ireland and signposts to more detailed guidance on specific areas. It is not a full description of legal matters, nor is it a substitute for advice from your own professional advisers.

Charities may also be subject to other legislation and sometimes more than one regulator. For example, charitable companies also have to comply with the requirements of company law under the Companies Act 2006. More information on this can be accessed from Companies House.

### 2.2 Who does this guidance apply to?

This guidance is aimed at people who are thinking of setting up a new charity or someone who is advising a new organisation, for example, a solicitor, accountant, agent or adviser.

### 2.3 What are legal requirements and best practice?

In this document where we use the word 'must' we are referring to a specific legal or regulatory requirement. We use the word 'should' for what we regard as best practice, but where there is no specific legal requirement. Best practice guidelines should be followed unless there is good reason not to.

### 2.4 Charity legislation

References in this document to 'the Charities Act' are to the **Charities Act (Northern Ireland) 2008** as amended by the **Charities Act (Northern Ireland) 2013**.

Please check our website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk) to make sure you are using the latest version of forms and guidance.

## Section 3: Is a new charity the best way forward?

If you are thinking of setting up a new charity, before you go ahead, there are a few things it might be helpful to consider.

This section of the guidance will help you to determine whether setting up a new charity is the best way to proceed.

### 3.1 Are there existing charities with the same purposes or activities?

There are thousands of charities in Northern Ireland. One of these may already be doing the work your new charity would do, and in the same area. Setting up and running a charity takes a lot of work. If you haven't recruited any **trustees**, you may want to think about joining forces with an already established charity rather than starting a new charity. This could be a more efficient use of time and funds.

You will be able to find a charity by searching the *register of charities* at [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

### 3.2 Are there other ways to address the need you have identified?

You may be able to address a charitable need without setting up a new charity, for example, by:

- fundraising
- volunteering
- becoming a trustee.

#### Fundraising

Fundraising is not a **charitable purpose** in itself. It is an activity which can be undertaken to help support a charitable purpose. You can raise money for a particular charity through activities such as sponsored walks or holding sales of donated goods. If you do this there is no need to register as a charity, you can simply donate the money raised to a charity of your choice.

#### Volunteering

Volunteers are active in many ways across Northern Ireland, including in local communities, hospitals, schools, playgroups and luncheon clubs, to name but a few. People volunteer for all sorts of reasons, some to help



others or to develop new skills and social networks, others because they are interested in a particular issue or activity. Whatever the motivation, many established charities would appreciate more volunteers to assist with their work and purposes.

## Becoming a trustee

Charity trustees are the people who have overall control of a charity and responsibility for making sure it is working to achieve its charitable purposes. As a trustee, you are taking on a role in a voluntary capacity, and will use your skills and experience to ensure the charity is run efficiently and can make a lasting difference to a cause you care about. Trustees of smaller charities, in particular, may take on some or all of the work of running the charity while trustees of larger charities may have support from employees. Trustees may also seek advice from external sources, such as legal or other professional advisers.

### 3.3 Would setting up a new charity stop you from doing the things you want to do?

Becoming a charity will place some restrictions on what an organisation can do, for example:

- charities must meet the requirements of charity law
- there are rules that apply to charities when they carry out certain activities such as trading
- charities are run by trustees who do not usually personally benefit from the charity
- charities must not have political purposes
- charitable assets must remain within the charity sector
- charities must be independent so, while they can work with other organisations, they must make independent decisions about how they seek to achieve their charitable purposes
- many charities find it difficult to raise money for their operations
- registered charities must provide up-to-date information about their activities and finances, which will be made available on the public *register of charities*.

There are many good causes which do not qualify as charities, and some organisations may not be eligible to be a charity, for example, community interest companies, community amateur sports clubs (CASCs), non-charitable social enterprises and co-operative societies.

If, having considered this information, you decide that you still wish to start a new charity then you must understand what the Charities Act says about charities. The rest of this guidance will help you to identify key questions or considerations.

## Section 4: What is my charity set up to achieve?

When setting up a new charity you will have to decide on the charity's purposes. These will set out what your charity has been set up to achieve.

### 4.1 What are charitable purposes?

To be a charity an organisation must have **purposes** which are all **exclusively charitable**. This means a charity cannot have some purposes which are charitable and others which are not. **Charity trustees** must know and be able to identify the purposes of their charity.

The **Charities Act** lists 12 descriptions of charitable purposes. These are:

- The prevention or relief of poverty
- The advancement of education
- The advancement of religion
- The advancement of health or the saving of lives
- The advancement of citizenship or community development
- The advancement of the arts, culture, heritage or science
- The advancement of amateur sport
- The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
- The advancement of environmental protection or improvement
- The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
- The advancement of animal welfare
- Any other charitable purpose.

These are not purposes in their own right but broad descriptions of purposes. Each of a charity's purposes must fit into one or more of these descriptions. The last description 'Any other purpose' exists to allow for charitable purposes that are not expressly identified in the other descriptions but are similar in nature and have been established by the courts to be charitable.

If any of your purposes are outside this list, then your organisation cannot be a charity in Northern Ireland.

If your organisation is being set up to campaign to change the law, this is a political purpose and means your organisation is not a charity. This does

not mean that your charity cannot engage in political activity or campaigning however certain rules apply. More advice is available in the Commission's *Charities and politics* guidance.

The Commission has produced supporting guidance for each of the 12 descriptions of charitable purposes. Each supporting document explains what is meant by the description of the purpose and applies the principles of public benefit to this purpose. These documents can be found on the *public benefit requirement* page of the Commission's website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

## 4.2 What is the public benefit requirement?

The Charities Act states that purposes must be for the public benefit to be charitable. This is known as the **public benefit requirement**. There are two elements to this requirement, the benefit element and the public element:

**Benefit:** This is about the benefit flowing from the charity's purposes. For a charity's purposes to satisfy the benefit element of public benefit, that benefit must have three key features, it must:

- flow from the charity's purposes
- be capable of being demonstrated
- be beneficial, not harmful.

**Public:** This is about who may benefit from the charity's purposes. For a charity's purposes to satisfy the public element, the benefit which may flow from those purposes must:

- be to the public or to a **section of the public**
- not provide a **private benefit** to individuals unless this benefit is **incidental**.

The Commission has produced **statutory guidance** on *the public benefit requirement*. Charity trustees must have regard to this guidance. We have also developed a *Purposes and Public benefit toolkit*. This toolkit will help you review your purposes to ensure they adequately express what your organisation is set up to achieve.

## Section 5: How do we decide on structure and governance arrangements?

When setting up a charity it is important to choose the right structure for what you intend to do. This section gives a brief description of the main types of charity structure. It does not offer a full description of legal matters specific to your organisation, nor is it a substitute for advice from your own professional advisers.

There are three main types of charity structure:

- unincorporated association
- charitable company
- charitable trust.

### 5.1 What is an unincorporated association?

An **unincorporated association** is one which is not a **company** or **corporate body**. Unincorporated associations will usually have a **constitution** as their governing document. Unincorporated associations can be simpler to set up than other forms of charity. You may decide to use this structure if you are a small group of people, working with more than one **charitable purpose** and if you intend for your organisation to stay small. Groups which use this structure usually carry out community or social events. A local chess club which meets regularly and runs tournaments is an example of an unincorporated association.

Unincorporated associations lack a separate legal identity which means they are unable to hold land or investments in their own name. You should also be aware that in an unincorporated association the trustees have personal legal responsibility for what the charity does. If you decide to set up this type of charity you may need to take legal advice about your liabilities.

### 5.2 What is a charitable company?

The law regards **charitable companies** as having the same legal identity as a person. So a charitable company, just like a person, can own land and enter into contracts in its own name. These charities also have limited liability for debts or lawsuits. This means that their company members are usually only liable for a limited amount of money, for example £1. However the amount will depend on what is set out in their governing

document. Trustees will still be liable for losses due to fraud or intentional wrong doing.

Charities which decide to be companies may:

- be quite large
- have employees
- enter into commercial contracts, including contracts to deliver services
- own freehold or leasehold land, or other property.

When considering setting up a charitable company you must remember that additional costs will be involved. A charitable company must comply with the Companies Act 2006. Companies must register with the Commission and with Companies House.

If you decide to establish a charitable company we would strongly recommend that you take professional legal advice.

### 5.3 What is a charitable trust?

A **trust** is one of the oldest legal structures used to set up charities. Charitable trusts are usually set up with a specific sum of money and a group of people who become the **trustees**.

You might use this structure if your charity:

- will only make grants to individuals or organisations
- will not employ staff or enter into contracts
- will be run by a small group of people who will decide how grants are made
- will not have a membership.

An example would be where a lottery winner wants to donate money for research into rare diseases. A fund is established and three people are appointed as trustees to administer research grants.

Like unincorporated associations, charitable trusts also lack a separate legal identity which means they are unable to hold land or investments in their own name. This is important because it means that the trustees share personal legal responsibility for the **trust**. If you decide to set up this type of charity you may need to take legal advice about your liabilities.

## 5.4 Incorporation scheme for charity trustees.

Section 10 of the Charities Act (Northern Ireland) 1964 contains provisions regarding the incorporation of charity trustees. Trust and unincorporated associations who own property or enter into contracts may want to consider using this power to incorporate their charity trustees. Property owned by such organisations, the Title, is usually held in the individual names of charity trustees. The incorporation of charity trustees would allow the Title to be held in the name of the incorporated body, which may reduce or avoid annual administrative expenses associated with updating the title of the property. Likewise contracts could be entered into in the name of the incorporated body and if problems arose it would be the incorporated body, not the individuals Trustees, who would be named in any legal proceeding; however the trustees may still be liable.

If you decide to incorporate your body of charity trustees you may need to take legal advice about your liabilities.

## 5.5 What is a governing document?

A charity's **governing document** sets out the rules by which the charity will operate. It is a legal document that contains a charity's purposes, activities and organisational processes.

The most common governing documents are a trust deed, a constitution, **articles of association** or a **will**. What type of governing document you use will depend on the nature of the charity. For example a charitable company must have a memorandum and articles of association.

The Commission recommends that a governing document contains information about:

- what the charity is set up to do (its purposes)
- how the charity will do those things (its powers)
- who will run the charity (its trustees, directors, committee members)
- how many trustees the charity must appoint
- what happens if changes to the administrative provisions need to be made (an **amendment clause**)

- what happens in the future if the charity needs to close (a **dissolution clause**).

The governing document should also outline the internal arrangements relating to, for example, meetings, voting and looking after money.

If your charity will have members, separate from the Trustees, the governing document should also outline who can become a member, how they can join and outline their responsibilities.

Model governing documents are available on the Commission's website at [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk). These provide a template which charities can use and adapt to meet their organisation's specific requirements.

## 5.6 Finding trustees

The people who form the governing body or board of a charity are its trustees. Depending on the structure of your organisation the trustees may also be called directors, board members, governors or committee members. The trustees have a shared duty of care for the charity and must ensure the charity complies with the Charities Act and other relevant legislation.

The Commission recommends each charity has a minimum of three trustees so, if a dispute arises, there can always be a deciding vote.

To form an effective board of trustees think about the mix of skills and experience which each trustee will bring to the charity, for example:

- fundraising or financial experience
- understanding of the needs of the beneficiaries of the charity
- business, legal, marketing, or governance expertise.

Remember that trustees of charitable associations or trusts must be at least 18 years old, while in charitable companies trustees can be 16 years old.

Most trustees are volunteers and receive no payment except for out-of-pocket expenses.



Some people are disqualified by law from acting as charity trustees. These disqualifications are set out in the Charities Act and broadly include, but are not limited to, anyone who:

- has been convicted of an **offence involving deception** or an **offence involving dishonesty**, unless the conviction is spent under the Rehabilitation of Offenders (Northern Ireland) Order 1978
- is an **undischarged bankrupt**
- has made an **arrangement with creditors**
- has previously been removed as a charity trustee by any of the United Kingdom's charity regulators or the courts
- is subject to a **disqualification order** or a **disqualification undertaking** under company legislation.

A charity's governing document may also set out who is disqualified from acting as a trustee for that charity.

It is an offence to act as a **trustee** while disqualified. The Commission recommends that all charities have a **vetting procedure** in place to check that new and existing trustees are eligible to act as trustees.

Checking the Commission's *register of removed trustees* is one way to do this in part. It is also good practice for charity trustees to sign a form before their election or appointment to confirm that they are not disqualified.

The Commission's *Running your charity* guidance provides further information for trustees on their role and responsibilities as well as key aspects of running a charity effectively.

## **5.7 Children and vulnerable adults**

If your charity will be working with either children or vulnerable adults, you must make the appropriate checks and have the relevant policies in place. You will be required to confirm that these checks have been completed and the policies are in place when you apply to register as a charity.

## 5.8 Good governance

Trustees are responsible for the **good governance** of their charity. Good governance means ensuring that proper procedures and policies are in place to manage a charity's resources effectively.

More information about good governance is available in the Commission's *Running your charity* guidance.

The Developing Governance Group in Northern Ireland has produced a code of good governance that has been endorsed by the Charity Commission for Northern Ireland and is available to download from the DIY Committee Guide website [www.diycommitteeguide.org](http://www.diycommitteeguide.org)

## Section 6: How do we choose a name for our charity?

A name is very important to a charity as it is the way in which the public recognise it. The **Charities Act** sets out some criteria for charity names and gives powers to the Commission, under certain circumstances, to request or direct a charity to change its name. For more information about charity names see the *Changing your charity's name* guidance on our website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

### 6.1 What to think about when choosing a name?

You should:

- choose something that is unique and memorable
- avoid using words or acronyms that could cause offence in English or any other language
- avoid misleading names, for example suggesting your charity does something or works in a particular location when it does not
- be aware that some names and titles of work are subject to **intellectual property rights** and you must have permission to use them.

### 6.2 Can a charity have more than one name?

Some charities have a **main name** and a **working name**. For example, Comic Relief and Sport Relief are working names for Charity Projects. Charities can also use abbreviations as alternative names, such as the Northern Ireland Council for Voluntary Action (NICVA). When you apply to register your charity, alternative or working names should be listed.

### 6.3 Can the Commission direct a charity to change its name?

Section 20 of the Charities Act gives the Commission powers to direct a charity to change its name in certain circumstances.

The Commission follows a risk-based approach to decision making. This means we will balance the risk of a charity name causing a dispute, harm or confusion against the potential detrimental effects to a charity should we advise or direct it to change its main name.

We will only issue a **direction** where we consider the action to be proportionate in order to maintain public trust and confidence in charities.

## Section 7: How do we prepare our charity for the future?

Successful charities are organisations which consider the developments and risks they may face in the future and develop plans for managing these challenges. This section looks at some areas to consider when preparing your charity for the future.

### 7.1 Running your charity

Building a strong board of **trustees** is vital to a charity's success. Trustees are responsible for understanding their duties and ensuring the charity complies with any relevant legal requirements. An integral part of good governance is a willingness to engage in a process of continual improvement. Some of the areas the trustees will be responsible for include:

- finance, funding and accounts
- recruitment and management of volunteers and employees
- managing risk
- protecting assets and covering liabilities with appropriate insurance.

The Commission's *Running your charity* guidance provides more detailed advice on these areas.

### 7.2 Dealing with growth

A charity may grow as demand for its services increases and as it receives regular or additional funding. As your charity takes on more work, you might find that you need extra people to deliver your services. These people can come from pooling resources with another charity or recruiting volunteers or staff.

Pooling resources with another charity or organisation could save money, time and effort, while helping to meet extra demand. Some partnerships like this lead to long term collaboration and charities merging. Networking with other charities and organisations can also give you valuable knowledge about what to expect as your charity develops.

Trustees who recruit and manage staff and volunteers must comply with employment legislation and equality legislation. Before embarking on this step charities should ensure that their trustees have the skills necessary for them to fulfil these responsibilities.

### 7.3 Closing a charity

Charities close for a number of reasons:

- a loss of funds
- a lack of members
- the charity is merging with another charity
- an unincorporated association is becoming a charitable company.

When drawing up the governing document it is important to outline the procedure to be followed if the charity has to close. If your charity is registered you will also have to inform the Commission of the closure so that the charity can be removed from the *register of charities*.

The Commission has produced guidance for *charity mergers and closures*. This is available on our website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

## Section 8: Registration and annual reporting

The Charity Commission for Northern Ireland is the independent regulator of charities in Northern Ireland, responsible for ensuring Northern Ireland has a dynamic and well governed charities sector in which the public has confidence.

The Commission's objectives include:

- increasing public trust and confidence in charities
- promoting compliance by charity trustees with their legal obligations
- promoting the effective use of charitable resources
- enhancing the accountability of charities to donors, beneficiaries and the general public.

Some of the ways the Commission meets these objectives include, applying the law to determine which organisations are a charity and maintaining a publicly accessible *register of charities*.

### 8.1 Charity registration

The Commission began the process of compulsory charity registration in Northern Ireland on Monday 16 December 2013.

As a result, the online *register of charities* is now live on the Commission's website and includes information on charities which have been registered to date. This register will continue to grow as charities are added over coming months and years.

The Commission is managing the process of registration by calling charities forward in tranches to apply to register. However, in order to be called forward to apply for registration, newly established charities must make the Commission aware of their existence. They can do this by filling in an *Expression of Intent* form, which is available on the *Registration lists and expression of intent* page of the Commission's website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

**Charity trustees** of an organisation that must apply for registration, but do not come forward to do so, are in breach of their statutory duty under the Charities Act and the Commission may take legal action against them.

An organisation must apply for registration as a charity in Northern Ireland if it:

- has **exclusively charitable** purposes
- is **governed by the law of Northern Ireland**
- has **control and direction** over its governance and resources.

There are no exceptions or exemptions to applying for charity registration, which is compulsory for all charities.

When a charity is entered on the *register of charities* it will receive a Northern Ireland Charity number (NIC) which it must then display on all its stationery, information and fundraising materials.

Some of the benefits of registration to charities are:

- meeting your statutory obligation to register
- increased public trust and confidence, potentially leading to increased public donations or other support
- triggering the ability to apply for charitable tax relief for organisations not yet recognised by Her Majesty's Revenue and Customs (HMRC)
- a Northern Ireland charity number, which can be used on literature and elsewhere to indicate that you are effectively regulated and have been through a process to determine charitable status.

Other stakeholders benefit from charity registration by:

- knowing that organisations on the register are regulated, enhancing trust and confidence
- being able to quickly and easily search the online register for a specific charity
- accessing information on charities with specific **purposes**, working in a particular area and how they benefit the public.

More information and guidance is available in the Commission's guidance on *Registering as a charity in Northern Ireland*

## **8.2 Annual reporting**

Annual reporting by **registered charities** is a key element of the Commission's ongoing regulatory and monitoring work and is essential to keep the *register of charities* up to date. It is a legal requirement for registered charities to report annually to the Commission on their activities, governance and finances.

The Department for Social Development (DSD) is responsible for developing the full accounting and reporting regulations (phase two) which will specify the form and content of charity accounts, and the level of review or audit these accounts must have. They will also set out the content requirements for the trustee annual report. These regulations are presently being drafted and will then be consulted on.

In the interim the Commission accepts financial **accounts** and trustee **annual reports** in the format the charity usually uses.

Through the annual reporting programme registered charities will be required to:

- complete and submit an online annual return form
- submit charity accounts and reports online as a PDF.

The Commission will use this information to:

- check for compliance with the law
- discover where there is misconduct, mismanagement and inappropriate use of charitable property and funds
- encourage good practice
- provide information about the charity sector
- provide information on each charity
- maintain an up to date *register of charities* in Northern Ireland.

More information and guidance is available in the Commission's guidance on *Charity reporting: Interim arrangements and the annual monitoring return*.

Advice on how to create a PDF is also available on the Commission's website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk).



## Glossary

Term	Definition
<b>Accounts</b>	A structured record of monetary transactions. This may take the form of a credit and debit basis, maintained manually or as a computer record.
<b>Amendment clause</b>	This clause in a governing document outlines how certain changes can be made to the document and procedures of the charity.
<b>Annual report</b>	A comprehensive report on an organisation's performance throughout the preceding year, including financial operations.
<b>Arrangement with creditors</b>	An agreement between a debtor and his/her creditors concerning the payment of his/her debts under the provisions of insolvency legislation.
<b>Articles of association</b>	A document that specifies the regulations for a company's operations. The articles of association define the company's purpose and lay out how tasks are to be accomplished within the organisation, including the process for appointing directors and how financial records will be handled.
<b>Beneficiaries</b>	A legal term for a person, group of people or an entity (like a charity) eligible to benefit or receive assets from a charity's work. The beneficiary group of a charity will be defined in the charity's governing document. Beneficiaries may sometimes be called clients or service users.
<b>Charitable company</b>	This is a charity, which is formed and registered under the Companies Act 2006, or any companies that were already established under previous legislation. Charitable companies are registered with Companies House. It will usually have memorandum and articles of association as its governing document and it has its own legal identity. It must be established for exclusively charitable purposes.

<b>Charitable purpose</b>	<p>This is defined by section 2 of the Charities Act (Northern Ireland) 2008, (as amended), as one that:</p> <ul style="list-style-type: none"> <li>• falls under one or more of the list of 12 descriptions of purposes set out in section 2(2) of the Charities Act and</li> <li>• is for the public benefit.</li> </ul> <p>To be a charity, an organisation must have purposes which are exclusively charitable in law.</p>
<b>Charities</b>	<p>Charities are organisations (whether incorporated or not) that are established for charitable purposes only and are subject to the jurisdiction of the courts in respect of charities.</p>
<b>Charities Act (Northern Ireland) 2008</b>	<p>The Charities Act (Northern Ireland) 2008 is the main piece of legislation establishing the Charity Commission for Northern Ireland and setting out its functions and powers.</p> <p>References to 'the Charities Act' are to the Charities Act (Northern Ireland) 2008, as amended. The full content of the 2008 Charities Act can be found at <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a></p> <p>Not all of the sections of the Charities Act are in force yet. Details of the sections that are in force are available on the Commission's website <a href="http://www.charitycommissionni.org.uk">www.charitycommissionni.org.uk</a></p>
<b>Charities Act (Northern Ireland) 2013</b>	<p>The Charities Act (Northern Ireland) 2013 is a much shorter Act and was primarily brought in to amend the definition of a charity in the Charities Act (Northern Ireland) 2008.</p> <p>The full content of the 2013 Act can be found at <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a></p>
<b>Charity trustees</b>	<p>These are the people who are legally responsible for the control, management and administration of a charity. In the charity's governing document they may be called trustees, managing trustees, committee members, governors or directors or they may be referred to by some other title.</p>

	<p>Some people are disqualified by law from acting as charity trustees. These disqualifications are set out in the Charities Act and broadly include but are not limited to anyone who:</p> <ul style="list-style-type: none"> <li>• has been convicted of an offence involving deception or dishonesty, unless the conviction is a spent conviction under the Rehabilitation of Offenders (NI) Order 1978</li> <li>• is an undischarged bankrupt or has made an arrangement with creditors</li> <li>• has previously been removed as a trustee by the Commission or by the Courts</li> <li>• is subject to disqualification under company legislation.</li> </ul>
<p><b>Control and direction</b></p>	<p>Those who have control and direction of an organisation are the people who are ultimately responsible for its management and governance.</p> <p>Their responsibilities include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Setting the strategic direction to guide the organisation in its future endeavours.</li> <li>• Developing the organisation’s internal and external policies.</li> <li>• Ensuring the efficient use of the organisation’s resources. Resources can include capital, equipment, land, machinery and people.</li> <li>• Monitoring the success of the organisation’s activities and programmes.</li> <li>• Ensuring the operation of the organisation is in keeping with its purposes and values.</li> <li>• Ensuring effective communication between members and the organisation’s stakeholders.</li> <li>• Ensuring compliance with all relevant law.</li> </ul>
<p><b>Corporate body</b></p>	<p>A corporate body or body corporate is a collection of persons which, in the eyes of the law, has its own legal existence (and rights and duties) separate from those of the persons who form it from time to time. It has a name or title of its own and may also have a common seal for use on official documents. Also known as corporations, bodies corporate are not</p>

	necessarily companies, but companies are by definition bodies corporate.
<b>Direction</b>	This is a legal document issued when the Commission requires people to take a particular action. This may be to give the Commission particular information or documents, or to attend a meeting. The Direction will specify what information or documents must be provided and within what timescale. Serious legal consequences may arise if charity trustees do not comply with a Direction.
<b>Dishonesty</b>	In general dishonesty to commit offences involving dishonest is to do something which you realise is dishonest, according to the standards of reasonable and honest people.
<b>Dissolution clause</b>	A section of a governing document which outlines what must be done if the charity is to close and how it will discharge its liabilities and distribute its assets.
<b>Disqualification order</b>	<p>An order of the Court which disqualifies a person from:</p> <p>(a) being a director of a company, acting as receiver of a company's property or in any way, whether directly or indirectly, being concerned or taking part in the promotion, formation or management of a company unless (in each case) he has the leave of the court, and</p> <p>(b) acting as an insolvency practitioner</p> <p>It is a criminal offence to contravene a disqualification order. A person could also become personally liable for any debts of the company which it incurs while acting in breach of a disqualification order.</p>
<b>Disqualification undertaking</b>	<p>A director's promise, made with the agreement of the Department of Enterprise, Trade and Investment, that he/she:</p> <p>(a) will not be a director of a company, act as a receiver of a company's property or in any way, whether directly or indirectly, be concerned or</p>

	<p>take part in the promotion, formation or management of a company unless (in each case) he has permission of the Court, and</p> <p>(b) will not act as an insolvency practitioner.</p> <p>It is a criminal offence to contravene a disqualification undertaking. A person could also become personally liable for any debts of the company which it incurs while acting in breach of a disqualification undertaking.</p>
<b>Exclusively charitable</b>	<p>To be a charity, an organisation must have purposes which are exclusively charitable in law. That means that each purpose:</p> <ul style="list-style-type: none"> <li>• must fall under one or more of the 12 descriptions of purposes set out in section 2(2) of the Charities Act and</li> <li>• is for the public benefit.</li> </ul> <p>Even if all, except one, of an organisation's purposes are charitable, it would not be considered to have exclusively charitable purposes and would not be registered as a charity.</p> <p>Further information can be found in the Commission's <i>Public benefit requirement statutory guidance</i>.</p>
<b>Good governance</b>	<p>Good governance refers to making sure an organisation is properly run. It is concerned with leadership, accountability and the best management of resources.</p>
<b>Governed by the law of Northern Ireland</b>	<p>Indicators that your organisation is governed by the law of Northern Ireland:</p> <ul style="list-style-type: none"> <li>• It is a company registered in Northern Ireland or</li> <li>• Your governing document says that the organisation is governed by the law of Northern Ireland</li> <li>• A majority of the charity trustees are resident in Northern Ireland and there is no reference to any other legal framework in the governing document.</li> </ul>
<b>Governing</b>	<p>A charity's governing document is any document</p>

<b>document</b>	which sets out the charity's purposes and, usually, how it is to be administered. It may be a trust deed, constitution, memorandum and articles of association, conveyance, Will, Royal Charter, Scheme of the Commission or other formal document.
<b>Harm</b>	Something that causes damage, injury or loss – physical, mental, environmental or social.
<b>Incidental</b>	<p>This is something that happens or is likely to happen in an unplanned conjunction with something else. If people or organisations benefit from a charity, other than a beneficiary, then the benefit must be incidental, i.e. it directly contributes towards achieving the charity's purposes and/or it is a necessary result or by-product of carrying out those purposes.</p> <p>If private benefit is more than incidental then it may mean that the organisation is set up for a private benefit and therefore may not be charitable.</p>
<b>Intellectual property rights</b>	Intangible property that included patents, trademarks, copyright and registered and unregistered design rights.
<b>Main name</b>	A charity's main name is the name on their governing document or, for example, on any certificate of change of name.
<b>Members</b>	<p>A member is defined as a person who has agreed to become a member and whose name is entered on an organisation's register of members. They are not involved in the day-to-day management of an organisation but are entitled to do the following things:</p> <ul style="list-style-type: none"> <li>• attend and vote at general meetings</li> </ul>

	<ul style="list-style-type: none"> <li>• receive the annual accounts of the organisation</li> <li>• elect trustees by voting at the meeting</li> <li>• vote on any fundamental changes to the nature of the organisation, its name, its purposes or what happens to its profits.</li> </ul> <p>Normally there will be one meeting per year, called the Annual General Meeting (AGM), and members will be given at least three weeks' notice of the place and time of the meeting. Other general meetings may be called in exceptional circumstances.</p> <p>Members are not entitled to receive dividends or other income from their organisation. If the organisation makes a profit this will be retained to help pay for the organisation's activities in the following years. If the organisation is wound up members will not receive any money from the organisation because its constitution requires that it should be paid to another similar organisation or to a charity. If it is not in the constitution, charity law would require that the monies be transferred in this manner by use of a scheme or other power.</p>
<p><b>Offence involving deception</b></p>	<p>Theft Act (NI) 1969 created six imprisonable crimes involving deception namely:</p> <ol style="list-style-type: none"> <li>i. to obtaining property by deception,</li> <li>ii. obtaining a money transfer by deception,</li> <li>iii. obtaining pecuniary advantage by deception,</li> <li>iv. procuring the execution of a valuable security by deception, obtaining services by deception, and</li> <li>v. evasion of liability by deception,</li> </ol> <p>These offences were repealed by the Fraud Act 2006 which came into force on 15 January 2007. However offences committed before 15 January 2007 as still prosecuted under the Theft Act (NI) 1969. From January 2007 offences involving deception fall into three categories:</p>

	<ul style="list-style-type: none"> <li>i. fraud by false representation,</li> <li>ii. fraud by failing to disclose information, and</li> <li>iii. fraud by abuse of position.</li> </ul>
<b>Offence involving dishonesty</b>	In general to commit offences involving dishonesty is to do something which you realise is dishonest, according to the standards of reasonable and honest people.
<b>Private benefit</b>	<p>There is private benefit where an individual or an organisation gains from their involvement with a charity. In some cases it may be proper for such a benefit to arise; in some cases not.</p> <p>Charities can provide private benefit so long as the benefit is incidental, i.e. it directly contributes towards achieving the charity's purposes and/or is a necessary result or by-product of carrying out those purposes.</p> <p>An example of a private benefit that is incidental is paying reasonable salaries to a charity's staff; this benefit contributes directly to achieving the charity's purpose.</p>
<b>Public benefit requirement</b>	This is the legal requirement that the purposes of an organisation must be for the public benefit if it is to be registered as a charity in Northern Ireland. By law, charity trustees must have regard to the Commission's <i>Public benefit requirement</i> statutory guidance.
<b>Purposes</b>	<p>The purposes of a charity will usually be defined by what its governing document says that it is set up to do.</p> <p>According to the Charities Act, all the organisation's purposes must:</p> <ul style="list-style-type: none"> <li>• fall under one or more of the list of 12 descriptions of charitable purposes in the Charities Act and</li> <li>• be for the public benefit.</li> </ul>



<b>Registered charity</b>	This is a charity that has been registered by the Charity Commission for Northern Ireland and appears on the online <a href="#">register of charities</a> . Compulsory charity registration began in December 2013. This is not the same as registration with HMRC for charitable tax purposes.
<b>Section of the public</b>	Where benefit is not to the public generally, it can be to a 'section of the public'. Who constitutes a 'section of the public' is not a simple matter of numbers. Where the benefit is to a section of the public the opportunity to benefit must not be unreasonably restricted. For example, a charity set up to support sufferers of a very rare illness may only benefit a few people, however this is lawful provided that anyone who suffers from the illness can potentially benefit.
<b>Statutory Guidance</b>	Guidance which the Commission is required by law to draft and publish as part of its public benefit objective and which all charity trustees must have regard to.
<b>Trust</b>	A charitable trust is where property is held by charity trustees for the benefit of the public or a section of the public.
<b>Trustees</b>	Trustee means a charity trustee. Charity trustees are the people who are responsible for the general control of the management of the administration of the charity. In the charity's governing document they may be collectively called trustees, the board, managing trustees, the management committee, governors or directors, or they may be referred to by some other title.
<b>Undischarged bankrupt</b>	This is someone who has been declared bankrupt, and is not yet discharged from bankruptcy.

<p><b>Unincorporated association</b></p>	<p>An arrangement by which two or more people enter into a contract for common charitable purposes. An unincorporated association may have a constitution or set of rules as its governing document. Unlike a charitable company, unincorporated associations do not have their own separate legal identity. Charity trustees of unincorporated charities are liable for what the charity does. You may need to take legal advice if you are uncertain of your liabilities.</p>
<p><b>Vetting Procedure</b></p>	<p>Before a trustee is appointed it is necessary to ensure that those applying to be a trustee are not disqualified from acting as a trustee.</p> <p>As a minimum, before appointing a trustee, the trustee board should obtain a declaration from the prospective trustee that they are not disqualified from acting as a charity trustee.</p> <p>Trustees can also consult official registers which record the names of people who are disqualified from acting as charity trustees. These include:</p> <ul style="list-style-type: none"> <li>▪ The Court service for Northern Ireland (undischarged bankrupts,)</li> <li>▪ Insolvency Service search for Northern Ireland (Voluntary arrangements, Debt Relief Orders)</li> <li>▪ The Insolvency Service Search – For England and Wales (individual insolvency, bankruptcy restrictions and debt relief restrictions registers)</li> <li>▪ Register of Insolvencies – Scotland (Sequestrations, protected trust deed, receivership or liquidation)</li> <li>▪ Companies House database for disqualified directors</li> <li>▪ Companies house database for dissolved companies</li> <li>▪ The Charity Commission for Northern Ireland register of removed trustees</li> <li>▪ The Charity Commission of England and Wales register of removed trustees</li> <li>▪ AccessNI</li> </ul>

	<p>We strongly recommend that charities working with children or vulnerable adults with positions which are eligible for Disclosure and Barring Service checks do so.</p> <p>It is good practice to check trustees are eligible to act. It is an offence to act as a trustee whilst disqualified.</p>
<b>Will</b>	<p>A document by which a person appoints executors to administer his/her estate after death and directs the manner in which it is to be distributed to the beneficiaries he/she specifies.</p>
<b>Working name</b>	<p>A working name is any name that a charity may be known as, aside from their main name. For example: Comic Relief and Sport Relief are working names for Charity Projects.</p>

## Useful contacts

There are many resources that charity trustees can use to help them carry out their duties. This is not a definitive list of all the sources of information available. We would encourage trustees to make use of the wide range of organisations that can help them run their charity as effectively as possible.

Charities Regulatory  
Authority (CRA) Ireland

Charities Regulatory Authority  
St. Martin's House  
Waterloo Road  
Dublin 4

**Telephone:** +353 (0)1 633 1500

**Website:** [www.charitiesregulatoryauthority.ie](http://www.charitiesregulatoryauthority.ie)

Charity Commission for  
England and Wales (CCEW)

PO Box 211  
Bootle  
L20 7VX

**Telephone:** 0300 066 9197

**Website:**

[www.gov.uk/government/organisations/charity-commission](http://www.gov.uk/government/organisations/charity-commission)

Companies House

Second Floor  
The Linenhall  
32-38 Linenhall Street  
Belfast  
Northern Ireland  
BT2 8BG

**Telephone:** 0303 1234 500

**Website:** [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

Department for the  
Economy

Department for the Economy  
Adelaide House  
39-49 Adelaide Street  
Belfast  
BT2 8FD

**Telephone:** 028 9025 7777

**Website:** [www.economy-ni.gov.uk](http://www.economy-ni.gov.uk)

Department for Communities	Lighthouse Building 1 Cromac Place Gasworks Business Park Ormeau Road Belfast BT7 2JB <b>Telephone:</b> 028 9082 9000 <b>Website:</b> <a href="http://www.communities-ni.gov.uk">www.communities-ni.gov.uk</a>
Equality Commission for Northern Ireland	Equality House 7-9 Shaftesbury Square Belfast BT2 7DP <b>Telephone:</b> 028 9050 0600 <b>Website:</b> <a href="http://www.equalityni.org">www.equalityni.org</a>
HM Revenue and Customs (HMRC)	HM Revenue & Customs Charities, Savings and International 2 HM Revenue and Customs BX9 1BU United Kingdom <b>Telephone:</b> 0300 123 1073 <b>Website:</b> <a href="http://www.hmrc.gov.uk/charities">www.hmrc.gov.uk/charities</a>
Human Rights Commission for Northern Ireland	Temple Court 39 North Street Belfast BT1 1NA <b>Telephone:</b> 028 9024 7844 <b>Website:</b> <a href="http://www.nihrc.org">www.nihrc.org</a>
Northern Ireland Council for Voluntary Action	61 Duncairn Gardens Belfast BT15 2GB <b>Telephone:</b> 028 9087 7777 <b>Website:</b> <a href="http://www.nicva.org">www.nicva.org</a>
The Fundraising Regulator	1st Floor 10 St Bride Street London ECA 4AD <b>Telephone:</b> 0300 999 3404 <b>Website:</b> <a href="http://www.fundraisingregulator.org.uk">www.fundraisingregulator.org.uk</a>

## Useful supporting documents

*Registering as a charity in Northern Ireland: guidance*

*The public benefit requirement: statutory guidance*

*Supporting documents on the 12 charitable purposes*

*Purposes and Public benefit toolkit*

*Common errors made in registration applications*

*Running your charity guidance*

*Charity reporting: Interim arrangements and the annual monitoring return*

*Consents for charitable companies*

*Changing your charity's name*

*Charities and politics*

*Charity mergers and closures*

*New powers for unincorporated charities*

*Requesting a scheme*

*Register of charities*

*Register of removed charities*

*Expression of intent*

*Registration lists and expression of intent*

## If you are dissatisfied with our service

The Commission is committed to delivering a quality service at all times. However, we know that sometimes things can go wrong. If you are dissatisfied with the service you have received, we would like to hear from you, and have a procedure that you can use. You will find further information on these processes in our guidance, *Making a complaint about our services*, which is on our website [www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)

## Data protection

Any information you give us will be held securely and in accordance with the rules on data protection. Your personal details will be treated as private and confidential and safeguarded, and will not be disclosed to anyone not connected to the Charity Commission for Northern Ireland unless you have agreed to its release, or in certain circumstances where:

- we are legally obliged to do so
- it is necessary for the proper discharge of our statutory functions
- it is necessary to disclose this information in compliance with our function as regulator of charities where it is in the public interest to do so.

We will ensure that any disclosure made for this purpose is proportionate, considers your right to privacy and is dealt with fairly and lawfully in accordance with the Data Protection Principles of the Data Protection Act.

The Data Protection Act 1998 regulates the use of "personal data", which is essentially any information, whether kept in computer or paper files, about identifiable individuals. As a "data controller" under the Act, the Charity Commission for Northern Ireland must comply with its requirements.

## Freedom of Information

The Freedom of Information Act 2000 gives members of the public the right to know about and request information that we hold. This includes information received from third parties.

If information is requested under the Freedom of Information Act we will release it, unless there are relevant exemptions. We may choose to consult with you first if this relates to your consultation or application. If you think that information you are providing may be exempt from release if requested, please let us know.



**Further information on our activities is available from:**

**Charity Commission for  
Northern Ireland  
257 Lough Road  
Lurgan  
Craigavon  
BT66 6NQ**

[www.charitycommissionni.org.uk](http://www.charitycommissionni.org.uk)



**Email: [admin@charitycommissionni.org.uk](mailto:admin@charitycommissionni.org.uk)**

**Tel: 028 3832 0220**

**Fax: 028 3834 5943**

**TextPhone: 028 3834 7639**

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