



Becoming a Charity

Do we need to become a Charity?

Often there can be lots of charities carrying out very similar activities:

- ▶ Is there the need and the resources for what you want to do?
- ▶ What makes your idea for a charity different?
- ▶ Is there an existing charity you could get involved with?
- ▶ Will you have enough future funding?
- ▶ Who will run the charity?

The Charity Test

Your organisation can only become a charity if it meets the charity test. To do this it must have only **charitable purposes** and it must provide **public benefit**.



Advantages of becoming a Charity

Gives confidence to the public and funders that you are regulated.

Can have financial benefits, some funders will only work with charities.

Can bring Tax benefits and rates relief

Opportunities for funding and collaboration.

Charity trustees have collective responsibility. Running a charity is a team effort and everyone is equally responsible.

Things to consider

Being regulated brings with it legal responsibilities to act in specific ways

Charities must provide certain information to OSCR and the public

You need OSCR's permission before making certain changes

collective responsibility means that charity trustees need to work together even when they don't all agree.

Incorporated or Unincorporated?

- ▶ An organisation that has been incorporated can enter into contracts, hold property, and take part in lawsuits, in its own right. E.g.
- ▶ Company Limited by Guarantee
- ▶ Charitable Incorporated Organisation (SCIO)
- ▶ Community Interest Company's (CIC's) cannot become charities.

SCIO	Unincorporated Association	Company	Trust
Single regulator OSCR	Single regulator OSCR	Dual regulators OSCR and Companies House	Single regulator OSCR
Legal personality	No Legal personality	Legal personality	No Legal personality
Charity accounting requirements	Charity accounting requirements	Charity AND company accounting requirements	Charity accounting requirements
Unlimited powers in furtherance of purpose	Unlimited powers in furtherance of purpose	Unlimited powers in furtherance of purpose	Limited Powers
Removal from the Register results in dissolution	Removal from the Register does not result in dissolution	Removal from the Register does not result in dissolution	Removal from the Register does not result in dissolution
Duty to keep registers of members and charity trustees	No specific duties or requirements	Wide-ranging duties and requirements	Duties as set out in the governing document

Preparing to become a charity

- ▶ Decide on Charity Name
- ▶ Decide who will be Trustees
- ▶ Prepare the constitution
- ▶ The objectives for this must be written so that they meet the 16 charitable purposes set out in the 2005 Act.



You could use the following wording to structure your purposes, although you don't have to:

'To **advance**... [charitable purpose] by... [very brief outline of activities]'

'To **promote**... [charitable purpose] by... [very brief outline of activities]'

'To **provide**... [charitable purpose] by... [very brief outline of activities]'

'To **relieve**... [charitable purpose] by... [very brief outline of activities]'

What are the 16 Charitable Purposes?

- ▶ The prevention or relief of poverty
- ▶ The advancement of education
- ▶ The advancement of religion
- ▶ The advancement of health
- ▶ The saving of lives
- ▶ The advancement of citizenship or community development
- ▶ The advancement of the arts, heritage, culture or science
- ▶ The advancement of public participation in sport

Continued...

- ▶ The provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended
- ▶ The advancement of human rights, conflict resolution or reconciliation
- ▶ The promotion of religious or racial harmony
- ▶ The promotion of equality and diversity
- ▶ The advancement of environmental protection or improvement
- ▶ The relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage
- ▶ The advancement of animal welfare
- ▶ Any other purpose that may reasonably be regarded as analogous to any of the preceding purposes

How to Apply

To be registered as a charity in Scotland you must apply to OSCR.
(There is no charge for this)

You will need:

- ▶ To complete an online application form on the OSCR website
- ▶ Completed Trustee Declaration forms
- ▶ A copy of your constitution
- ▶ A recent statement of accounts - this is not required if your organisation is not yet up and running.
- ▶ A description of your organisation's existing or proposed activities
- ▶ Other supplementary Documents (optional)
- ▶ the majority of applications are assessed within 90 days

For Further Info

- ▶ SCVO Setting up a Charity <https://scvo.scot/support/setting-up-a-charity>
- ▶ Apply to become a Charity <https://status.oscr.org.uk/>

Key Documents

- ▶ Legal Forms Fact Sheet <https://www.oscr.org.uk/media/2506/legal-forms-factsheet.pdf>
- ▶ OSCR Being a Charity in Scotland <https://www.oscr.org.uk/guidance-and-forms/being-a-charity-in-scotland>
- ▶ OSCR Meeting the Charity Test <https://www.oscr.org.uk/guidance-and-forms/meeting-the-charity-test-guidance/>
- ▶ OSCR SCIO's a Guide:
https://www.oscr.org.uk/media/3113/cscios_a_guide.pdf