

# VAN BRIEFING

BRIEFING FROM THE  
VOLUNTARY ARTS NETWORK

## Getting charitable status

**Not all voluntary organisations are charities,** however worthy their aims. To become a charity an organisation must have purposes which the law sees as exclusively charitable. These are broadly covered by the four "heads of charity":

- the relief of poverty
- the advancement of education
- the advancement of religion and
- other purposes beneficial to the community.

An organisation which wishes to be a charity also needs to work for the benefit of either the public as a whole or a significant section of the public. This excludes organisations set up for the benefit of the trustees or of individuals and also some pressure groups and campaign organisations.

Arts organisations can become charities if their work is perceived to be of educational benefit to the public and provided the work is of "high artistic merit". Encouraging participation in the arts is also recognised as beneficial! An arts charity must adhere to its objects: not producing pure entertainment which has no perceivable educational value or engaging in permanent trading activities.

As the funding climate changes and trusts and other funders become more important an ever growing number of voluntary arts organisations are registering as charities. This briefing sheet has been designed to guide you through the process of becoming a charity. The procedure varies between the four nations of the UK and is different again in the Republic of Ireland. The sheet gives brief details for each of the nations and also includes addresses for further information.

### What are the benefits of charitable status?

Charitable status has a number of benefits for arts organisations including better access to funding and sponsorship (some Trusts and Foundations cannot give to non-charities and cannot claim a tax reduction even if they do); exemption from Corporation Tax, and various other tax reliefs (VAT exemption does not apply as a charity). It also makes your organisation more attractive to individual donors.

### What are the responsibilities of Trustees?

Trustees meet regularly to administer a charity. If yours is not a new organisation then they will generally be made up of the Board of Directors. They can either run the charity

on a daily basis themselves or employ staff, but even when there are staff the legal responsibility for the running of the charity remains with the trustees.

- Trustees must act reasonably and with a high standard of care. Trustees who cause loss to their charity through lack of care or dishonesty may be required to repay the loss from their own pockets.
- They must never place themselves in a position where personal interest might conflict with their interests as trustees.

### Choosing a legal form for your charity

VAN operates as a charitable company limited by guarantee and most charities are also registered as companies. However, it is possible to register as an "unincorporated charitable association". This is simple to operate provided the terms of its constitution are clear and workable. A charitable company is more complex but offers greater security to its Board of Directors, as discussed in the briefing sheet on Incorporation which accompanies this one.

### Registering as a charity in England and Wales

Almost all charities in England and Wales need to be registered with the Charity Commission. It is sensible to consult the Charity Commissioners before finalising the governing instrument or constitution of your charity. The Commissioners publish a green form containing questions designed to help determine whether the organisation is suitable to become a charity. It is important to take great care when completing the form, any inaccuracies can cause delays. The Commissioners usually ask organisations to submit the questionnaire along with two copies of their draft governing instrument and their financial records. The Commissioners will also check the name of the proposed charity and if it is the same as or similar to an existing charity you will be asked to change it.

Unless the application is very straightforward, the Commissioners will consult with the Inland Revenue who may recommend further changes to the charity's governing instrument. Once the application has been approved, the trustees can go ahead and set up the charity and send in the completed application form along with a certified copy of the governing instrument. A registration number will then

be allocated to the charity and this should be quoted in any future correspondence with the Commissioners or the Inland Revenue.

If you are considering setting up as a charity in England and Wales it is worth getting hold of a copy of Francesca Quint's book "Running a Charity" published by Jordans of Bristol (ISBN 0 85308 188 3).

To find out more or begin the registration process contact:

**The Charity Commission (England and Wales)**  
**St Albans House, 57-60 Haymarket, London SW1Y 4QX**  
**Telephone: 0171 210 4517**

## Registering as a charity in Scotland

Before you begin the registration process you will need a written constitution with appropriate wording setting out your charitable aims (ask your solicitor for guidance). Charitable status is granted by the Inland Revenue's Financial Intermediaries and Claims Office in Edinburgh and you will need to send them a draft copy of your constitution before applying formally. They are at:

**The Inland Revenue**  
**Financial Intermediaries and Claims Office, Trinity**  
**Park House, South Trinity Road, Edinburgh EH 3SD**  
**Telephone: 0131 551 8127**

For more information about becoming a charity in Scotland get hold of the Scottish Council for Voluntary Organisations' "Constitution and Charitable Status" guidebook. It costs £10 but is clearly written with lots of detail and includes examples of other voluntary organisation's approaches. Contact them at:

**The Scottish Council for Voluntary Organisations,**  
**18/19 Claremont Crescent, Edinburgh EH7 4QD**  
**Telephone: 0131 556 3882**

## Registering as a charity in Northern Ireland

Charities based in Northern Ireland do not, and in fact cannot, register as a charity. However, if you want to establish a charity in Northern Ireland it is normally advisable to make an application to the Inland Revenue for charitable status for tax purposes. If you can enjoy the advantages offered by tax relief and choose not to do so it may raise doubts in the minds of the public as to whether the group is a bona fide charity so it is best to register and enjoy the benefits.

If you need to prove that you are a charity to other charities in England and Wales you can use the reference given to you by the Inland Revenue, usually a number beginning XO, XN or XR, but explain that this is not a charity registration number.

The system for administering charities based in Northern Ireland is governed by the Charities Branch of Department of Health and Social Security's Voluntary Activity Unit. Apart from specific functions under the Charities Act (Northern Ireland) 1964 and Charities (Northern Ireland) Order 1987, most of the Branch's work

involves giving informal advice to trustees and their solicitors. Its staff are happy to discuss any problems a charity or would-be charity is facing and the address is given below.

A charity must be established by a written governing instrument which clearly states its purposes and how it will be run. The way the governing instrument of the charity is written will depend on the type of legal structure chosen and it is a good idea to seek legal advice at an early stage on which type of instrument would best suit your organisation. The Northern Ireland Council for Voluntary Action publishes a wide range of materials on the subject of becoming a charity including the booklet "So You Want to be a Charity" and can also offer sample governing institutions. For more information contact:

**Charities Branch, Voluntary Activity Unit**  
**Department of Health and Social Services**  
**Castle Buildings, Stormont, Belfast BT4 3PP**  
**Telephone: 01232 522780**

**Claims Branch, Charity Division, Inland Revenue**  
**St John's House, Merton Road, Bootle, Merseyside L69 9BB**  
**Telephone: 0151 472 6000**

**Northern Ireland Council for Voluntary Action**  
**127-131 Ormeau Road, Belfast BT7 1SH**  
**Telephone: 01232 321224**

**Northern Ireland Voluntary Trust**  
**22 Mount Charles, Belfast BT7 1NZ**  
**Telephone: 01232 245927**

## Registering as a charity in Ireland

There is no official register of charities in Ireland. Groups can apply to specific bodies in relation to specific issues for example the Revenue Commission in relation to taxes. However, this means that a group may be accepted as a charity by one body and not by another.

In order to be recognised by the Revenue Commissioners as having charitable status a group must already have a constitution which contains a statement that money received will only be used for charitable purposes. In order to be recognised as having charitable aims an organisation must comply with the four heads of charity outlined at the start of this briefing. The Revenue Commissioners publish a leaflet on tax relief for charities which outlines the procedures involved in registration: "Relief from Tax on Income and Property of Charities (CHY)1" which is available by contacting:

**Revenue Commissioners, Charities Section**  
**Government Offices, Nenagh, Co. Tipperary**  
**Telephone: 067 33533**

The Combat Poverty Agency also publishes a very useful "Guide to Legal Structures for Voluntary and Community Organisations" which covers charity law among other issues and costs £3 from:

**The Combat Poverty Agency,**  
**8 Charlemont Street, Dublin 2**  
**Telephone: 01 478 3355**



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