



The rules governing charities

What is a charity?

A charity is a body set up and established for exclusively charitable purposes. In England and Wales, charitable purposes are as set out in the Charities Act 2006 and each of the charity's aims must provide a benefit to the public. This may be only a section of the public, but must not be unreasonably restricted geographically or by ability to pay any fees charged.

This new public benefit requirement is a continuing duty for charity trustees throughout the life of the charity.

Governance

The nature of the organisation will determine the most suitable legal structure.

Type of governing document	Charity trustees will usually be called
Constitution or Rules	Executive or management committee members
Trust deed	Trustees
Memorandum & articles of association	Board, council of management or directors

Advantages and limitations of being a charity

Advantages to being a charity include not normally having to pay direct taxes (and there is special VAT treatment in some circumstances), paying no more than 20% of normal business rates and often finding it easier to raise funds than non-charitable bodies.

Charities must not carry out any non-charitable activities, and strict rules apply to trading.

Reporting

All registered charities must prepare a Trustees' Annual Report and accounts. The basic contents of the Report are mandatory, though the amount of information depends on the charity's size. It should explain the charity's aims and how it is going about achieving them for the public benefit. All charities must keep accounting records and prepare

annual accounts which must be made available to the public on request. In England and Wales, charities whose gross income exceeds £25,000* must file the Report and accounts with the Charity Commission and also submit a completed Annual Return. Charitable companies also have to submit accounts and Annual Returns to Companies House.

There are two bases on which charity accounts may be prepared:

- *Receipts and payments basis*, which may be adopted where a non-company charity has a gross annual income of £250,000† or less. It consists of an account summarising all money received and paid out by the charity and a statement giving details of its assets and liabilities at the end of the year.
- Non-company charities with gross annual income of over £250,000†, and all charitable companies, must prepare their accounts on the accruals basis in accordance with the Statement of Recommended Practice – Accounting and Reporting by Charities (SORP). They contain a balance sheet, a statement of financial activities (SoFA) and explanatory notes. These accounts are required, in accountancy terms, to show a “true and fair view”.

External scrutiny

The Companies Act 2006 largely harmonises the accounting and independent examination regimes for all charities. For accounting periods starting on or after 1 April 2008 the position is as follows.

Statutory thresholds	External Scrutiny required
Gross income not more than £25,000*	No external scrutiny necessary, but trustees may choose independent examination or audit
Gross income between £25,000* and £500,000	Independent examination is the minimum requirement, although trustees may still opt for audit
Gross income over £500,000, or total assets more than £3.26 million and gross income over £250,000† (see Note)	Audit required by statute

* £10,000 for accounting periods ending before 1 April 2009

† £100,000 for accounting periods ending before 1 April 2009

Note: for charitable companies a statutory audit is required when the total assets exceed £3.26m, regardless of the income.

There is much useful information available on the website of the Charity Commission www.charity-commission.gov.uk

Charities in Scotland

All charities operating in Scotland (including those already registered with the Charity Commission) must register with the Office of the Scottish Charity Regulator (OSCR) and are subject to full responsibilities and requirements under the Charities and Trustee Investment (Scotland) Act 2005. This includes submitting an Annual Return form, with accounts produced under the Charities Accounts (Scotland) Regulations 2006:

Statutory thresholds	External Scrutiny required
Gross income less than £500,000 and total assets not more than £2.8 million	Independent examination by a qualified person
Gross income of £500,000 or more, or total assets more than £2.8 million	Audit required by statute

For more information visit www.oscr.org.uk.

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