

Becoming a charity in Scotland

Scotland has more than 23,000 charities of different sizes and wide-ranging purposes, including community groups, religious charities, schools, universities and care providers. Many people give their money and time generously to help charities, which play a valuable role in enhancing life in our communities, and beyond.

What does it mean to be a charity?

A charity in Scotland is an organisation which is entered on the Scottish Charity Register. An organisation can **only** become a charity if it meets the ‘charity test’, meaning that it must show it has only charitable purposes and benefits the public. (You can read more about meeting the charity test at www.oscr.org.uk)

The Office of the Scottish Charity Regulator (OSCR) decides whether to grant an organisation charitable status and to enter it on the Register. We then monitor the charity to check it complies with the law. As regulator, OSCR seeks to encourage a flourishing charity sector that the public can trust.

So, if your organisation becomes a charity, it will be granted a status that recognises its contribution to society but also carries lasting legal responsibilities.

All charities must submit an annual return and accounts to OSCR every year and seek our permission to make certain changes. Only around half of Scotland’s voluntary organisations are charities and, if you are thinking of becoming a charity, you should consider whether this is right for you. There are a lot of advantages to becoming a charity but it may not be the only, or the best, option for your organisation.

Remember – it is against the law to describe yourself as a charity unless you are on the Scottish Charity Register.

Is becoming a charity the right choice for your organisation?

You should weigh the benefits of becoming a charity against the duties and responsibilities you would be taking on.

For instance:

- Being a regulated organisation can assure you of public goodwill and trust. Some funders may only consider charities. However, many organisations choose alternatives that are better suited to their needs and some prefer to work with an existing charity.
- Tax benefits – charities may register with Her Majesty's Revenue & Customs (HMRC) for Gift Aid and other tax relief, and may qualify for rates relief from local authorities. However, for some charities, particularly smaller ones, the effect of tax relief may be minimal depending on the nature of their activities. (OSCR does not deal with tax matters; you should consult HMRC using the useful links on our website.)
- The people who control charities (charity trustees) have legal responsibilities to act in certain ways and provide certain information to OSCR and the public.
- You must get OSCR's permission before making certain changes, such as changing your purposes or winding up.
- You must keep accounts and submit them to OSCR and, in future, filing will be done online. Most charities can prepare simple accounts but where your charity is a company or its gross income is £100,000 or more (this threshold increases to £250,000 for accounting periods starting on or after 1 April 2011), it must prepare more detailed accounts. All accounts must be externally scrutinised by a person who is independent of your charity.

How big will your organisation be?

Where will you get funding?

How much income do you expect?

Are you planning a one-off event or regular activities?

Who will run the charity and how much time will they give?

Will it offer benefit to many people or just a few?

Will your organisation have solely charitable purposes?

Is there an existing charity that you could work with instead?

Do you understand the duties a charity must take on?

Are you prepared to supply accounts information every year?

Think about

Preparing to become a charity

If you would like your organisation to become a charity there are several things you will have to do before applying to be registered:

- Decide what kind of organisation you would like to be, such as a company, a trust, a Scottish Charitable Incorporated Organisation (SCIO) or an association.
- Decide who will run your charity as the charity's trustees. If you are thinking of becoming a charity trustee you should read our 'Guidance for Charity Trustees', available on our website.
- Prepare a governing document, such as a constitution, which sets out your purposes, the rules of how your charity will be run, what it can do with its assets and how it can make changes to itself.
- Decide what your charity's name should be. We cannot register a charity whose name is the same or too similar to an existing one, or is misleading or offensive. Check the charity Register first at www.oscr.org.uk

Please seek advice about these decisions if you need to – see our useful links for organisations which can help you. Joining an umbrella organisation will give you support to help develop your charity. You can choose a general umbrella group, such as SCVO, or one that represents your area of interest, for instance in health, religion or education.

How to apply

To be registered as a charity in Scotland you must apply to OSCR. We do not charge you fees for this.

You must include:

- A completed application form.
- Completed Trustee Declaration forms – the people who run your organisation, called charity trustees, must all assure us they are aware of their responsibilities and are not disqualified from acting as charity trustees.
- A copy of your constitution – this sets out your organisation’s purposes and what your charity trustees can do, which allows us to decide if you have charitable purposes.
- 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 which allows us to decide if you will provide public benefit.

How we decide

You send us your application to become a charity with your supporting documents.

- Within ten days we will let you know that we have received your application.
- We consider whether or not your organisation meets the ‘charity test’ – if there are problems or we need further information we may contact you.
- If you meet all the registration conditions, we will let you know your application has been successful. We will register your organisation as a charity and issue you with a Scottish Charity Number. You should include this on all your literature, adverts and publications.
- Once you are a charity on the Register you can apply for tax relief to HMRC.
- If you fail, we will let you know and explain why. If you disagree with the decision, you can ask us to review it. You can find out how to ask for a review on our website.
- We assess the majority of applications within 90 days.

Useful links

We provide a lot of information and guidance on our website www.oscr.org.uk As the regulator, we cannot advise you if becoming a charity is right for you. However, you can get further support and information from:

- Scottish Council for Voluntary Organisations (SCVO) has lots of useful information about constitutions, charitable status and organisational structures in the Governance section of its website – www.scvo.org.uk
- Your local Council for Voluntary Service (CVS) or Volunteer Centre, which offer support to voluntary organisations.
- The Scottish Government’s website has an Enterprising Third Sector Organisations Zone which gives details of help and practical support available – www.scotland.gov.uk
- If you want professional legal advice on becoming a charity, you can find a solicitor or law firm by using the ‘Find a Solicitor’ section of the Law Society of Scotland website – www.lawsocietyofscotland.org.uk – you can search by name, area of work or accredited specialism.
- If you have any questions about tax, contact the HMRC Charities Helpline on 0845 302 0203 or go to www.hmrc.gov.uk/charities

Contact us

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