

## charity formation service

### Introduction

Stewardship is able to assist churches, Christian fellowships, and Christian organisations in the formation and registration with the Charity Commission of charities. Such bodies have a basic obligation to register with the Commission once the annual income exceeds £5,000 unless specifically excepted under the Charities Acts.

Churches within the following denominations are currently excepted from the requirement to register: The Methodist Church, Baptist and Congregational churches, Independent churches affiliated to the Fellowship of Independent Evangelical Churches (FIEC), The Presbyterian Church of Wales, The Church of England, The Church in Wales, The Religious Society of Friends (Quakers), The United Reformed Church. However, from October 2008 those with an annual income of over £100,000 will have to register.

This service is delivered in association with a specialist Christian solicitor, who has extensive charity law experience.

### Features of our service

- Advice on the most appropriate legal structure for the charity. This will

## Registration of new charity

often be in the form of a Trust Deed. For larger, more complex charities a charitable company limited by guarantee may be more appropriate.

This can provide greater protection to trustees personally but is a slightly expensive option and does require greater administrative care to operate.

A further information sheet setting out the different advantages and disadvantages of trusts and companies is available on request.

- Preparation of the necessary legal document. This will be based on drafts which have been developed and refined over time and which will be acceptable to the Charity Commissioners.
- Completion of the detailed Charity Commission application form.
- Handling all correspondence with the Commission up to registration.
- The provision of detailed guidance notes on the legal and financial aspects relating to church/charity trusteeship, to help keep you on the straight and narrow!

## Charges

We set a standard charge for each category and this charge applies in the vast majority of cases. In unusual or complicated cases an extra charge may be made. Our current standard charges are:

- **Charitable Trust:** £575.00 plus VAT of £100.63.

Initial payment: £287.50 plus VAT of £50.31 = £337.81

- **Charitable Company limited by Guarantee:** £725.00 plus VAT of £126.88 (plus £20.00 Companies House fee and £10 Commissioner's fee).

Initial payment: £362.50 plus VAT of £63.44 = £425.94

- **To register an existing charitable company with the Charity Commission:** £350 - £725 plus VAT depending on the complexity of the existing Memorandum and Articles, and any changes you may wish to make at the same time.

Initial payment: £287.50 plus VAT of £50.31 = £337.81

- **To incorporate an existing charitable trust** – the charges will be the same as stated above for setting up a charitable company. However, depending on the circumstances, there might be separate legal fees (between £30 - £400) required for asset transfer formalities.

Initial payment: £362.50 plus VAT of £63.44 = £425.94

**Refund Policy:** Should work not reach completion because the applicant has required us to cease work, refund of fees may occur but this will be at Stewardship's discretion and will be subject to deduction for cost which have been incurred.

**Proof of Identification:** Normally no personal identification of the proposed trustees is required by our Legal Team; however in some circumstances our legal team are required to obtain proof of identification and will therefore request the following from you:

- A certified copy of your passport or photo driving licence
- A recent utility bill (not mobile phone) not more than 3 months old as proof of address

# CHARITY FORMATION SERVICE TIME LINE

This time line is designed to give clients a rough idea of what to expect when the application is relatively straightforward and the client is able to return the documents quickly. However, where a charity has a number of trustees (or some living abroad), further time will be required.

## DAY 1

Completed application arrive at Stewardship

## DAY 2

Application to our legal team

## WEEK 2

Client receives engagement letter from legal team

## WEEK 3-4

Client completes required ID check by returning documents required by legal team

## WEEK 4-5

Draft documents sent to client

## WEEK 6-8

*Trust Route*

Originals sent to client for signatures

## WEEK 6-8

*Company route*

Originals sent to clients for signature

## WEEK 9-11

Application sent to Charity Commission

## WEEK 7-9

Originals sent to Companies House for Incorporation and receive company number

## WEEKS 16-25

## RECEIVE CHARITY NUMBER

(This timetable can be affected by whether the charity will work with children or young adults or if there are unusual aspects that raise queries from the Charity Commission)

NB: This timetable is based on the prospective trustees completing and returning all required information promptly

# charity formation questionnaire (new charity)

Please complete all relevant sections. This form may seem long, but completing it fully will assist smooth progress. This will enable us to complete most of the Charity Commission application. If there is insufficient space use the continuation section or attach extra sheet(s)

## name, administration and location of church or organisation

**Name:** check first with the Charity Commission (0845 3000 218 and ask for the *Central Register*) in case your preferred name is already used. They will refuse to register if your name is the same as or too similar to an existing charity. If in doubt, ask for our advice.

1 Full name of charity:

2 Any working name you use or wish to use:

3 Details of the main (official) correspondent including, where relevant, office address (if no office give home address):

Name ..... Mr/Mrs/Miss/ \_\_\_\_ Capacity (*eg trustee*).....

Address.....

..... Postcode: .....

Daytime tel (.....) ..... Alternative tel (.....) ..... Fax: (.....).....

Email ..... Charity website .....

Is the above an office or home address?  Office  Home

4 Date started (this may be approximate) \_\_\_\_\_ For churches, approx. no. of members \_\_\_\_\_

5 Location or locations where based or where main activities carried out (include relevant District/London Borough). If a church you should include the location where your Sunday meeting(s) is held (*the Commission tend to ask for this*):

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6 If you will be working overseas give details of the countries where you are or will be operating:

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## details of trustees

7 The trustees are the people having the legal powers and responsibilities to run the affairs, notably the financial affairs, of the charity. Their selection is therefore very important. If you are applying for a church, it is sensible for the existing church leaders to be the trustees wherever possible. Trustees do not have to have professional qualifications but ought to be actively involved in the affairs of the charity, and able to give time to attend regular meetings. Other requirements: ■ There are restrictions on trustees benefiting financially from the charity (see at 8 over). ■ There must be at least 3 ■ Avoid family members in the majority. ■ The majority of the trustees of a UK charity must be normally resident in the UK (ie, they must spend at least six months of the year in the UK) **Now list the intended trustees** (please include middle names where relevant):

**Full** name ..... **Home** Address .....

.....

**Full** name ..... **Home** Address .....

.....

**Full** name ..... **Home** Address .....

**Full** name ..... **Home** Address .....

**Full** name ..... **Home** Address .....

If there was insufficient space to show all the trustees, use the continuation section on last page and tick box

**8 Trustee remuneration or other benefits**

The normal rule for charities is that trustees should not receive payment for their services, nor otherwise benefit from the charity. The idea is to avoid any conflict between their own interests and the wider interests of the charity. However, it is possible to include power to pay trustees (with certain limitations) to cover the position of a paid church leader and some ministry leader positions in organisations. If you think you may need this power in the future, include it now. It is harder to persuade the Charity Commission to allow it by later amendment.

The restrictions on benefit also extend to the spouse or close relative of a trustee. So if the wife or husband of one of the trustees receives payment for some work done, this is classed as a benefit to the trustee.

Do you want power to pay a trustee?: YES NO If YES, and happening or will start in the near future, give:

Name of trustee(s):  
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The nature and amount of the pay/benefits  
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9 Apart from your answer to 8, will any of the following benefit in any way, directly or indirectly from the organisation:

(i) trustees; (ii) others involved in managing the organisation; (iii) a relative or business associate of (i) or (ii)? If so, give details, and include any use or occupation of property as a home or for business purposes:

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## income, funding & financial arrangements

The Charity Commission have set a minimum financial threshold of £5,000 income per annum to register a charity. For charities that are not new you will need to provide evidence of gross annual income with your application form; such as income/expenditure sheet for the past year; copies of your annual accounts or copies of bank statements showing income of £5,000 per annum. For new charities that are unable to provide any of the above, a letter of pledge signed by a supporter stating that at least £5,000 will be paid into your account soon after registration.

### 10 Financial Year

Every charity needs to work to a financial year and the Trustees can decide for themselves when this should run to. Common year ends are the 31st December, 31st March, 30th June, but it is entirely up to you which would suit you best. What is, or will be, your financial year end? *Month* \_\_\_\_\_ *Date* \_\_\_\_\_ (*eg, December, 31st*)

11.1 Total income for last full year: \_\_\_\_\_

11.2 If new, estimated income pa: \_\_\_\_\_, and please give details of any income received already:  
We have received \_\_\_\_\_ since (*date*): \_\_\_\_\_ and this has come from (*eg gifts from members*):

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### 12 Funding and Fundraising

12.1 How do you intend to raise funds in the future?

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12.2 Do you intend to make use of professional fundraising consultants?  YES  NO

## charitable purposes & activities

13 Please set out your main purposes and activities indicating which are current and which are intended for the future. This information will help us to include the appropriate charitable purposes (known as "objects") and powers in the document we will prepare. Use continuation section if necessary and/or attach additional information.

FOR A CHURCH: we will include objects to advance the Christian faith and to relieve need, hardship and sickness. If you think any of your activities will be wider than these objects, give details below.

FOR AN ORGANISATION: Be detailed about the activities you are already engaged in as well as those you plan to carry out. The Charity Commission like specific examples of the things you are currently doing.

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**general matters**

**14 Statement of Faith.** Many churches and Christian organisations wish to include a Statement of Faith in the Trust document and require Trustees to adhere to this. We often include the Evangelical Alliance Statement of Faith. Your own preferred statement could be used.

<i>Do you wish to include a Statement of Faith?</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
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<i>If yes, will the EA Statement be acceptable?</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO If NO: <input type="checkbox"/> Preferred statement enclosed
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**15 'Sexual orientation regulations'.** It is considered that the Sexual Orientation Regulations 2007 do not restrict a church's right to refuse to hire a hall to groups which are promoting sex outside of heterosexual marriage, e.g. a 'gay rights' group, so long as the church does not operate on a commercial basis and that it is clear and consistent in applying its doctrinal standards. Do you wish a statement to be included in your Statement of Faith to establish that your Church has a doctrinal stance on this point restricting use by groups which promote sex outside heterosexual marriage?  YES  NO

**16 'Leader led churches'.** It is possible to incorporate paragraphs that make it clear that the spiritual direction of the church is to be set by its 'spiritual leaders' rather than the trustee body, with the trustees being responsible for the legal outworking of that direction and being appointed by the 'spiritual leadership'.

Do you wish to include 'leader led' paragraphs?  YES  NO

**17 Legal Structure.** We normally establish charities as Trusts under a Trust Deed. This is the simpler and less expensive option. However the structure of a charitable company limited by guarantee may be appropriate for larger, more complex charities or those employing a number of people or operating in more 'risky' fields. Trustees of charitable companies are better protected against potential claims from others, eg for injuries, breach of contract, or unfair dismissal. But whatever the structure, trustees can be held personally liable for acting outside their powers or without reasonable care, causing a loss to the charity. If you would like more information on the differences, some further notes are available.

**18 Charitable Company required:** Tick box  and answer the following:

Select option for tenure of office of trustees/directors:

- Indefinite (ie until resignation or removal)  retiring and offering for re-election each year
- All retiring and offering for re-election every \_\_\_\_\_ year(s) - *specify frequency.*

Should the chairman have a casting vote?  YES  NO

Will you need provision for organisations to be members of the company?  YES  NO

Companies limited by guarantee have both **directors** (the trustees) and **members**. Normally the trustees are left to run the charity but have to report to members at the Annual General Meeting. We normally make the trustees/directors and the members the same people for simplicity. If you think you may prefer some other structure, please discuss with us.

**19 Child Protection**

**19.1** Nearly all churches work with children and under 18s. Other charities may. If you do, the Charity Commission will require (i) that you have a suitable Child Protection Policy and (ii) that every trustee has a CRB



**Information the legal team may request from you**

- A certified copy of your passport or photo driving licence
- A recent utility bill (not mobile phone) not more than 3 months old as proof of address

**signature**

**date**

If different from official correspondent, complete the following: Name .....

Address.....

Postcode ..... Daytime tel (.....) ..... Email .....

**how did you hear of us?**

Please send with all relevant enclosures to:

**Stewardship, PO Box 99, Loughton, Essex, IG10 3QJ.** Telephone 020 8502 5600. Fax 020 8502 5333