

charity formation

Registration of new church

Introduction

Stewardship is able to assist churches and Christian fellowships 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 generally 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 have been required to register.

This service is delivered in association with Anthony Collins, a specialist firm of solicitors, which has extensive experience of working with churches and christian charities.

Features of our service

1. Advice on the most appropriate legal structure for the charity. This will often be in the form of a Trust Deed. For larger, more complex charities or those with higher risks a charitable company limited by guarantee may be more appropriate.

This provides greater protection to trustees personally but is a slightly more 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 our website or on request.

2. 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 Commission.
3. Completion of the detailed Charity Commission application form.
4. Handling of all correspondence with the Commission up to registration.
5. The provision of detailed guidance notes on the legal and financial aspects relating to church/charity trusteeship, and other related Stewardship Briefing papers to help keep you on the straight and narrow!

Standard charges

We set a standard charge for each category and this charge applies in the vast majority of cases. We endeavour to work within the standard charge wherever we can.

Our current standard charges, exclusive of VAT currently 20%,

- **Charitable Trust:** £600.00 (Stewardship £150, Anthony Collins £450)
- **Charitable Company limited by Guarantee:** £750.00 (Stewardship £150, Anthony Collins £600) (plus £40.00 Companies House fee).

All payments are made payable to "Stewardship"; initial payment £180 inclusive of VAT. We will request the balance of the charge payable approaching the completion of the work.

Extra charges

We appreciate, and are sensitive to the fact that at the outset of a charity's existence extra costs can be difficult to meet.

In unusual or complicated cases an extra charge may need to be made. Extra charges can arise in the following types of circumstances:

- Where meetings are required. We have assisted in the formation and registration of thousands of charities and it is only the exceptional case that requires meetings to achieve this. In nearly all instances telephone discussions are fully satisfactory.
- Detailed reviews of an existing charity's documents to establish, and address difficulties over the desired course of action.
- Assisting in transferring property from one charity to another. Should you wish for this to be provided, the solicitors can provide an estimate based on the nature of the assets being transferred.

- Extensive re-drafting of the proposed governing document where there is a change from what the initial information indicated was required or where there are preferred styles of wording which do not materially affect the legal stance. (NB: There is no additional charge for the first re-draft that may be required except in the most unusual of circumstances).
- Unusually complex governance structures (e.g. weighted voting at membership level, unusual appointment of directors/trustees, three tier governance).
- Handling extensive enquiries raised by the Charity Commission as a result of their review of the proposed charity's website or other material. This is not usual – we have needed to make an extra charge in this respect in less than 1 in 100 formations.
- Advice or amendments to documents after successfully completing the charity formation.

Our approach to situations where any extra charge becomes likely is to discuss it with you to explain the issues, available alternatives and to give an estimate of the likely additional cost. Charges are not made without prior discussion of this nature.

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 costs which have been incurred.

Proof of Identification: As with other legal and financial service providers, Anthony Collins Solicitors will require personal identification from two of the proposed trustees. Since the requirements are governed by Law Society guidance they will request this from you themselves.

REGISTRATION FOR A CHARITABLE COMPANY/TRUST WITH CHARITY COMMISSION - 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 arrives at Stewardship	DAY 2-4 Application to our solicitors	WEEK 2 Client receives engagement letter from solicitors plus ID requirements	WEEK 2-4 Client returning documents required by solicitors	WEEK 3-5 Draft documents sent to client
WEEK 5-7 Client comments and returns draft documents	WEEK 5-8 Originals and draft Charity Commission Application sent to clients for comment and signature	WEEK 7-10 Originals and draft Charity Commission Application returned	WEEK 10-11 <u><i>Company Route</i></u> Originals sent to Companies House for Incorporation and receive company number	WEEK 10-12 Application sent to Charity Commission
WEEKS 13-20 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 church)

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

Name: check first with the Charity Commission (www.charitycommission.gov.uk) 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 church:

2 Any working name you use or wish to use:

3 Details of the main (official) correspondent including, where relevant, church address:

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

Address.....

..... Postcode:

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

Email Church website

Is the above a church or home address? Church Home

4 Date started (this may be approximate) _____ Approximate number of members _____

5 Location or locations where based or where main activities carried out (include relevant District/London Borough). This 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 church. Their selection is therefore very important. 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 church, 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 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 (this does not prevent reimbursement for actual expenses incurred on behalf of 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, principally that the number of 'paid trustees' should be in the minority) to cover 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.

NB: The Charity Commission will not normally register a charity when it wants to pay a majority of its trustees or close relatives of trustees. 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.

We would like the power to pay trustees:

YES (recommended unless it is unlikely that there will be a need in the future)

NO

Is the requirement likely to be used in the near future: YES NO If YES please provide the following:

Name of trustee(s):

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The nature and amount of the pay/benefits (if this is not yet determined then please put an indication of the likely bands of income and approach to setting the level of payment that is likely)

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9 Apart from your answer to 8, will any of the following benefit in any way, (including occupying any property owned or rented by the charity or renting/selling to the charity any property they own) 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:

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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. 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 at least £5,000 is deposited. For organisations that are unable to provide any of the above, a letter of pledge signed by a supporter(s) used to be satisfactory, but the only other indication of income that is now acceptable is a formal offer of funding from a recognised funding body.

We will also need details of your bank account (see section 'what you need to send with this form')

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 a professional fundraiser? YES NO

If yes you will need a written agreement with the fundraiser which meets minimal standard requirements which the Charity Commission may want to see.

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.

We will include an object to advance the Christian faith and to enable the Church to carry out any other charitable purpose which is connected with the work of the Church. This will include the relief of need, hardship and sickness; the advancement of Christian education; the provision of community facilities, so long as they are all regarded as being connected with the main work of the Church. If you think any of your activities will be wider than this object, give details below.

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general matters

14a **Statement of Faith.** Many churches wish to include a Statement of Faith in the trust document and require trustees to adhere to this. There are exemptions in the Equality Act 2010 which are designed to prevent religious charities from being asked to compromise their understanding of the doctrine of their faith (for example, in respect of Christian belief or the sanctity of heterosexual marriage). Also, in some circumstances a doctrinal statement can be helpful in establishing the charity's position where, for example, requests may be made for use of a church property from groups which promote other beliefs or lifestyles.

We often include the Evangelical Alliance Statement of Faith ([www. eauk.org/about/basis-of-faith](http://www.eauk.org/about/basis-of-faith)) but 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
<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
<i>Do you wish your Statement of Faith to include a statement on the sanctity of heterosexual marriage?</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO

14b **'Leader led churches'**. Do you wish to include a clause stating that the spiritual direction of the Church is to be set by its Spiritual Leaders and that the Trustees are responsible for the outworking of that direction?

YES NO

Please tick the appropriate box:

- i. The Trustees will have the power to appoint new Trustees (N.B. Spiritual Leaders can be Trustees); or
- ii. The Spiritual Leadership, and not the Trustees, will have the power to appoint new Trustees

15 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 on our website.

Please tick the appropriate box:

Trust under a Trust Deed

Charitable Company limited by guarantee Now complete Q16

16 Charitable Company required:

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.*
- Retiring by rotation (one third retiring each year over a three year cycle)

Should the chairman have a casting vote? YES NO

Rarely, provision is needed for organisations to be members of the company. Do you need this? 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.

17 Child Protection

Nearly all churches work with children and under 18s and/or vulnerable adults. 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 (standard) disclosure certificate dated within 3 years from the date of application.

Do you work with children and or vulnerable adults YES NO

If yes: Do you already have a policy, please tick the box and send a copy with this questionnaire. If you do not already have a policy you will need to start the process of putting one in place. If you need assistance, we recommend that you use the services of the Churches' Child Protection Advisory Service, who are specialists in this field. Contact details: www.ccpas.co.uk; e: info@ccpas.co.uk; t: 08451 20 45 50.

Do you make Criminal Records Bureau checks for:

Trustees YES NO **Employees** YES NO **Volunteers** YES NO

what you need to send with this form

Please tick the box in each applicable case to indicate items you are enclosing.

- Copy annual statements of account for up to last 3 2 1 years (or if not available other information as indicated earlier)
- Bank paying-in slip or original piece of bank stationary (we understand that you may not have this currently but the charity commission require your bank account details so please send as soon as possible)
- A list of regular meetings and activities
- Copies of any promotional literature
- Copy of any preferred Statement of Faith (*please also e-mail a copy to enquiries@stewardship.org.uk and mark it 'charity formation'*)
- Cheque payable to *Stewardship* for initial payment of: £150 + VAT = £180

A receipted invoice will be sent to you. The second part of the fee will be payable before the end of the process.

The solicitors will request from you identification information, please expect this.

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