



## So, You want to start a charity - Or do you?

As the austerity measures begin to bite, and the chill wind of recession blows across the sector, we have seen a number of people who were formerly employees of statutory agencies approach us for guidance on becoming a Charity and setting up Charitable Companies and / or Charitable Incorporated Companies.

There is encouragement from the government for people to become self-employed and at first it seems attractive, especially if you have recently become unemployed or redundant. Although one of the main attractions of becoming self-employed is no longer having to work for somebody else there are several disadvantages you should consider. These include not being certain of having a regular income, having to arrange your own sick pay and pension and probably having to work long hours.

For some, choosing to become a charitable organisation is based upon work that is clearly charitable in nature, and with clear understanding of the processes and governance of charitable organisations. As such they are appropriately placed to begin the process of establishing a charity or charitable company.

For others they have misunderstood the requirement of a charity to have trustees who are **not paid** for their work as trustees.

One of the fundamental principles of charitable organisations and charities is 'voluntarism' this is often being overlooked.

- If you intend to set up an organisation, as a voluntary group, and you wish to get paid as the founder of the group then the charity can, subject to approval with the Charities Commission arrange that you're a salaried CEO of an organisation.
- In practice because of the legal requirements of trustees to act in the best of interest of the charity, as CEO your position is dependent on the trustees, i.e. they can dismiss you (subject to the usual requirements of employment law in this regard)

If you want to start a project, based on delivering a service or activities to the public, and if you want to get paid to do this, it is worth asking the question:

***“Do I need to be a charity to achieve my aims, or could I achieve the same outcome through being self employed, or setting up as a company?”***

A charity is a particular type of voluntary organisation, and must conform to a number of regulations set out in charity law.

Depending on what you wish to achieve, setting up a charity may not be the best approach. The Charity Commission (the independent regulator for charitable activity in the UK) has useful information about things to think about before setting up a charity, including an introduction to basic operating requirements and some example situations when an alternative approach might be more appropriate on their website, please visit: [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk).

### Why become a registered charity?

- **income generation** - some grant-makers only fund registered charities and likewise, individuals may be more willing to donate (either time or money) to registered charities
- **tax breaks** - charities qualify for a number of tax exemptions and reliefs on income and gains, and can take advantage of Gift Aid (a means of reclaiming tax on donations)
- **discounts** - many organisations offer free or discounted help to charities

However, if your income does not exceed £5,000, you can still enjoy these benefits without having to meet the regulatory requirements of being a registered charity.

### Do I qualify to register?

You will need to meet two criteria in order to be able to register as a charity:

- the aims of your organisation must be exclusively charitable (for a full list of charitable purposes, please visit the Charity Commission website: [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk))
- your organisation must be set up for public benefit (rather than for an individual or select group of people)

There is more information about the qualification and application processes on the Charity Commission website. It's also worth exploring whether there are existing charities with the same (or similar) purpose as your own - with limited funding available, sharing resources and working together could make it easier for you both to achieve your objectives in the long-term.

### What other options are there?

If you don't meet the legal requirements for setting up a charity, or decide that it isn't the right approach to achieve your objectives, there are alternative options.

For guidance on deciding whether a charity is right for you visit NCVO's Get Legal website: [www.getlegal.org.uk](http://www.getlegal.org.uk).

For more information or support call us on 0333 321 3021