

GUIDANCE SHEET FOR NEW GROUPS

Setting up a Voluntary Organisation or Community Group

First things first

There is nothing to stop you getting together with others to do something legal. Only in a few special circumstances (running an airline, for instance) do you need to tell anyone. You don't have to have any written rules or a constitution.

Just by coming together, however, your group will have a legal status (it will be considered an unincorporated association) and may be affected by all sorts of laws (such as tax law, employment law, property law, libel, copyright). It makes sense to clarify what the group is trying to do and how it is going to operate (who can be a member? what happens if people disagree? is it going to have a bank account? If so, who can sign cheques? what happens to any money if the group winds itself up?). If you write these things down, you have a constitution or set of rules - nowadays more generally called a 'governing document'.

Types of organisation

There are quite a lot of possible forms your organisation could have but there are two important distinctions to bear in mind. One is the difference between an unincorporated organisation and an incorporated one (or 'corporate body'). In the eyes of the law an unincorporated organisation is a collection of individuals working together; the organisation itself doesn't have a legal identity. So the organisation cannot hold property or employ someone or take part in a law suit - the individual members have to do these things as individuals. If the organisation owes money and can't pay, the individual members (or committee members) are personally liable. This is called unlimited liability.

A corporate body, on the other hand, has a legal identity and can hold property or employ someone in its own right. Members have limited liability; if the organisation goes bust, they are only liable for a limited amount. For voluntary organisations, common forms of incorporated organisation are the Company Limited by Guarantee and the Industrial and Provident Society. Two other legal forms have only recently been brought in – the Community Interest Company and the Charitable Incorporated Organisation which will become available in summer 2008 under the Charities Act 2006.

The other important distinction is between those organisations that are charitable in law and those that aren't. Charities are exempt from most forms of direct taxation, get at least 80% rate relief and may find it easier to raise funds from members of the public and charitable trusts and foundations. The most common way of getting charitable status is by registering with the Charity Commission. The Charity Commission will only register organisations that have an annual income of £5,000 (soon to be £10,000), a proper governing document and have exclusively charitable purposes - in other words, all the things the organisation can do are

charitable in law. At the moment there are four main sorts of legal purpose:

- The relief of poverty
- The advancement of religion
- The advancement of education
- Other purposes beneficial to the community

These are based on statute that goes back to 1601, there are proposals to replace them with a clearer set of ten purposes under the 2006 Charities Act.

Organisation set up

Registered charities have to keep accounts in a certain way and submit them to the Charity Commission annually. The people who make decisions about the organisation are charity trustees in law and are responsible for the good management of the charity. They must not benefit in any substantial way - so staff cannot be charity trustees.

The whole area of legal status and charity law is quite complicated and many groups feel they need help and advice. If you are going to get help from a lawyer, make sure they know something about charities and voluntary organisations. They often don't. If someone offers you a constitution to 'copy', make sure it suits the groups purposes – you can only do what your constitution allows you to!

The Charity Commission publishes lots of free helpful advice and guidance. Go to www.charitycommission.gov.uk/ and then click on Publications.

A couple of useful books are:

Charitable Status: A Practical Handbook

By Andrew Phillips with Bates, Wells & Braithwaite
ISBN 1 900360 83 7
5th edition, 2003

Voluntary but not Amateur

By Jacki Reason, Ruth Hayes & Duncan Forbes
Published by the London Voluntary Service Council
ISBN 1 872582 32 X
7th edition, 2004

You may find that there is a local development agency in your area, that can help. (Worthing Council for Voluntary Service, Colonnade House, Warwick Street Worthing, West Sussex BN11 3DH. Telephone 01903 528619), Look for a 'Council for Voluntary Service' (perhaps alternatively called 'Voluntary Action...') or see www.navca.org.uk to find your nearest. Additionally, for rural areas, look for a 'Rural Community Council' or see www.acre.org.uk.