



GUIDANCE ON ESTABLISHING A CHARITY

Introduction

1. A charity is an institution which is established for purposes which are wholly charitable under Manx law and which are for the public benefit.

What purposes are charitable under Manx law?

2. The meaning of charitable purpose has its origins in statement in a document known as the Preamble to the Charitable Uses Act 1601 (also known as the Statute of Elizabeth), which was subject to interpretation by the English courts, resulting in the classification of charitable purpose by the House of Lords in 1891 into four principal heads:

- (1) the relief of poverty;
- (2) the advancement of education;
- (3) the advancement of religion; and
- (4) other purposes beneficial to the community not falling under any of the preceding heads.

3. The head "other purposes beneficial to the community" was interpreted by the courts to include purposes such as the advancement of animal welfare, the promotion of the arts, culture and heritage and the relief of suffering caused by ill health.

4. In 1958, the UK Parliament passed the Recreational Charities Act 1958, which added to the list of charitable purposes the provision of facilities for recreation or other leisure-time occupation which are provided in the interests of social welfare.

5. The concept of charity has long existed in the Island, with the English principles having generally been followed. This was confirmed by the High Court in 1961 in the case of *In re Costain* in which the Deemster noted that, in the course of the hearing, all counsel agreed that the law of the Isle of Man was more liberal in interpreting what was charitable, and in any event not narrower, than the interpretation which the English law had put on the Statute of Elizabeth.

6. In 1960, Tynwald passed the [Recreational Charities \(Isle of Man\) Act 1960](#), which replicated the English 1958 Act by widening the meaning of charitable purposes in the Island to include the provision of facilities for recreation or other leisure-time occupation which are provided in the interests of social welfare.

7. Section 2 of the [Charities Act 1962](#), then further extended the meaning of charitable purposes as follows:-

- (1) Trusts expressed to be for the purpose of benevolence, philanthropy, or social welfare which are for the public benefit shall be charitable trusts.
- (2) A gift, devise, bequest or trust providing for the perpetual putting and keeping in due order and proper repair of private graves and monuments with their enclosures, or partly for such purposes and partly for other charitable purposes, shall be deemed to be and always to have been a valid gift or disposition for charitable purposes.

8. In 2006, the UK Parliament defined “charitable purpose” in legislation, including 13 purposes which reflected those which had been developed by the courts from the statement in the Preamble with the addition of a new purpose: the advancement of amateur sport.

9. Although the Manx courts are able to apply judgments of the English courts in certain circumstances, they cannot apply UK legislation unless in the, now very limited, cases where it extends to the Isle of Man. This meant that the definition in the Island of “charitable purpose” remained that which had been developed prior to 2006, and it was no longer the case that that term was capable of being interpreted more widely in the Isle of Man than in England.

10. This was remedied by the inclusion in the [Charities Registration and Regulation Act 2019](#) of the list of 13 purposes referred to in paragraph 8, as set out in section 6(1), in addition to those already set out in Manx legislation. Accordingly, subject to satisfying the public benefit requirement, the following purposes are now charitable under Manx law:

- the prevention or relief of poverty;
- the advancement of education;
- the advancement of religion;
- the advancement of health or the saving of lives;
- the advancement of citizenship or community development;
- the advancement of the arts, culture, heritage or science;
- the advancement of amateur sport;
- the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- the advancement of environmental protection or improvement;
- the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- the advancement of animal welfare;
- the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services;
- the provision of facilities for recreation or other leisure-time occupation which are provided in the interests of social welfare (per the [Recreational Charities \(Isle of Man\) Act 1960](#));
- trusts expressed to be for the purpose of benevolence, philanthropy, or social welfare which are for the public benefit (per section 2 of the [Charities Act 1962](#)); and
- trusts, etc, providing for the perpetual putting and keeping in due order and proper repair of private graves and monuments with their enclosures (per section 2 of the [Charities Act 1962](#)).

The meaning of “public benefit”

11. In order for a purpose to be charitable, it must be for the public benefit. This means that it must be beneficial and must benefit the public in general, or a sufficient section of it, that benefit to the general public can be inferred. What is a “sufficient section” of the public will differ from purpose to purpose.

12. What this means is that a charity cannot be established to benefit a small number of people unless they can be said to come from the population in general. So, whilst it is not charitable to establish a trust to provide relief for members of a particular family who suffer from a specified illness, it would be charitable to establish a trust to provide relief for sufferers in the Island of a rare illness even though it is probable that only a handful of individuals may benefit.

13. In the case of benefits which are available only to members of the institution concerned, membership must be available to a sufficient section of the community that the benefits can be considered as being public. This means that the eligibility criteria, including the cost of membership, must be such that membership is genuinely available to the relevant section of the community. Thus, for example, an institution established to relieve loneliness in older people by providing facilities and activities to its members must ensure that membership is available to a sufficient cross section of the community for it to provide a benefit to older people in general.

14. If an institution is established for more than one purpose, each purpose must be charitable and for the public benefit in order for the institution to be charitable.

Why establish a charity?

15. There are many good reasons for starting a new charity. There may be social needs which are not being met by government agencies or other welfare organisations or charities. New charities can be flexible enough to help local and minority needs, and can often get help to where it is needed very quickly. The creation of smaller charities can often encourage more people to become involved with charities because people are more likely to help a small, local organisation that is being run by friends than a larger organisation, which can seem impersonal and appear to have all the help that it needs.

16. If you want to do voluntary work, or help a particular cause, it is a good first step to see if there is already a charity that is doing what you want to do, and offering to help them. If you want to provide a service that no other charity provides, it may still be worthwhile approaching established charities to see if they would like to provide that service with your help – it may be something that an established charity would like to do and, indeed, could do, if it had the available people to do it.

17. Many people start charities because they wish to commemorate family members or friends. While many of these charities thrive and continue, others eventually fade away because the underlying reason for starting the charity was a need for the therapeutic benefits of doing so, namely to help cope with the loss of a loved one. In these cases, once the grieving and healing process has been worked through, people lose interest in the charity and it is no longer feasible for it to continue. Often, a lasting memorial can best be created through co-operation with an existing charity, for example by the creation of a named fund or by the purchase of assets for the charity in the name of the loved one.

18. If considering establishing a charity, however, it is necessary to consider what will be involved, which includes being aware of the legal and regulatory requirements as well as the advantages to the institution of being a charity. Another important matter to be considered is the likely availability of individuals with the necessary skills and interest to take on the role of the charity's trustees.

The advantages of being a charity

19. Charities benefit from their status in a number of ways. They may be eligible for relief from certain taxes and fees which would otherwise be levied by public authorities, e.g. rates, which reduces their expenses. Additionally, because charities are subject to legal requirements and regulatory oversight in relation to their operation, the public will have confidence that the funds are being spent appropriately and that there is a genuine benefit being achieved by the charities' activities. The effect of this is that members of the public

will give their support to charities, whether by making donations or volunteering their time and services.

Legal and regulatory requirements

20. Charities, and the individuals who responsible for their management and administration (the charity trustees), are subject to a number of legal and regulatory requirements. These requirements include steps such preparing and filing annual accounts and reports and notifications of certain events, such as changes to the charity trustees. However, charities must also be run in accordance with charity law, which means that the charity trustees need to be aware of the limits on what they can do in terms of operating their charity.

21. More information about the role of a charity trustee and the ongoing requirements can be found in the *Guidance as to the role of a charity trustee* available on the [Publications page](#), and on the [Running a charity – ongoing requirements page](#).

Requirement to register

22. One of the legal requirements concerning charities is the requirement to be registered under the [Charities Registration and Regulation Act 2019](#). It is an offence under section 8 of the 2019 Act for an institution to take or use any name, style, title or description implying, or otherwise pretend, that it is a charity or if to hold itself out as being a charity, unless it has already registered as a charity or it falls within a small number of categories which means that it is not required to be registered. If an institution commits such an offence, the individuals who have the general control and management of its administration (e.g. the directors, trustees, committee members, etc) may also be liable. The maximum penalty for breach of section 8 (if tried on information) is two years' custody and/or a limited fine or (if tried summarily) six months' custody and/or a fine of £10,000.

23. New institutions have a period of 28 days within which to submit a registration application from the date on which they were established. Whilst the institution is waiting for the application to be processed, it must not take any steps such as advertising forthcoming events, recruiting volunteers, soliciting donations, providing services to beneficiaries or, indeed, doing anything which publicises the charity and its intended activities. To do so is an offence under section 10, the maximum penalty for which is the same as for a breach of section 8 and, again, the individuals having the general control and management of the institution's administration may also be liable if the institution is in breach.

24. For an institution to be registered as charity in the Isle of Man, it must meet the legal requirements for being a charity and must also have a substantial and genuine connection with the Island, per section 12(1)(a)(i). Further information can be found in the *Note published by the Attorney General on the requirement for a substantial and genuine connection with the Isle of Man* which is available on the [Publications page](#).

25. If an institution is unable to register as a charity because it cannot demonstrate the necessary connection, it must not do anything which would mean that it commits an offence under section 8 and/or section 10.

What steps have to be taken in order to establish a charity?

26. Decide for which charitable purpose or purposes the charity is to be established, the main activities which are to be carried out in order to achieve that purpose, or those

purposes, and the location of the individuals who are to be helped by the charity. The statement describing these will be the charity's objects, for example: the advancement of education by building a school for orphans in Nepal; the relief of poverty by providing food parcels for needy families in Douglas and Onchan; or the advancement of health in the Isle of Man and elsewhere by the funding of research into cancer treatment. For more information about drafting a charity's objects, see the *Guidance on using the model governing instruments* which is available on the [Publications page](#).

27. Decide on the charity's name. For more information, see the *Guidance on using the model governing instruments* which is available on the [Publications page](#). If it is intended that the charity will have a "working name" or that it will use a different name when delivering certain of its activities, then it is likely that such a name would have to be registered as a business name with the Companies Registry.

28. Decide what kind of legal structure the charity will have, i.e. will it be an unincorporated body: an unincorporated association or a traditional trust, or will it be a body corporate: e.g. a charitable company or a foundation? For more information about the types of legal structure, see the *Guidance on using the model governing instruments* which is available on the [Publications page](#).

29. Having decided on the legal structure, identify suitable individuals to be the charity trustees, who will be the people who will have responsibility for the running of the charity in accordance with the requirements of charity law. The charity trustees should ideally include people with a mix of skills: an able administrator, someone who enjoys dealing with figures and people who are able to organise and run the activities through which the charity will deliver its objectives. Any person appointed as charity trustee should be aware of the responsibilities that they are taking on and the consequences of being in breach of them. Also, any person taking on that role must not be disqualified for doing so under section 25 of the [Charities Registration and Regulation Act 2019](#). For more information, see the *Guidance as to the role of a charity trustee* which is available on the [Publications page](#).

30. Prepare the charity's governing instrument, either using a model which is appropriate given the charity's legal nature or by seeking the assistance of a suitable professional, including drafting the charity's objects. The governing instrument must provide for those matters set out in Regulation 8 of the [Charities Regulations 2020](#). For more information, see the *Guidance on using the model governing instruments* which is available on the [Publications page](#).

31. The charity is established by signing the governing instrument and (where appropriate) following the statutory process (e.g. to incorporate it, if a company). It is recommended that, before the charity is established, a draft of the governing instrument is sent to Charities Administration so that any issues which might result in a refusal of the application to register the charity can be identified and addressed before the document is finalised. The draft should be sent as an editable Word document attached to an e-mail to charities@gov.im.

32. If the intention is to incorporate a charitable company under the Companies Acts 1931 to 2004 which has a licence granted by the Attorney General under section 18 of the 1931 Act (which means that the company would omit "Limited" from its name), the licence must be obtained prior to incorporation. To apply for a licence, send a draft of the Memorandum and Articles of Association as an editable Word document attached to an e-mail to charities@gov.im.

How to register a charity

33. Once the charity has been established, the application to register it is made by completing and signing the registration application form and posting, or delivering, it to Charities Administration at the address below, together with the documents referred to on the form. Further information, including details of the matters which must be considered by the Attorney General in approving, or refusing, a registration application, can be found in the *Guidance on making an application to register a charity* which is available on the [Publications Page](#).

34. If the application is approved, a registration certificate will be issued to the charity which includes the date of registration and the charity number. The information concerning the charity which is specified in Regulation 4 of the [Charities Regulations 2020](#) will be entered onto the register and, unless required by Regulation 5 to be kept private, that information will then be available to the public.

Contact details

Charities Administration

Attorney General's Chambers
Belgravia House
Circular Road
Douglas
Isle of Man
IM1 1AE

Telephone: +44 1624 687318
Email: charities@gov.im