



An Rialálaí
Carthanas
Charities
Regulator

What is a charity?

How to register.

Trustee duties.

Ruairí Ferrie

Registration and Reporting

September 2018



1. What is a charity?
2. How to register.
3. Trustee duties.



What is a charity?

The Charity Test





- **Exists for a charitable purpose:**
 - (a) the prevention or relief of poverty or economic hardship;
 - (b) the advancement of education;
 - (c) the advancement of religion;
 - (d) any other purpose that is of benefit to the community.
- **Must have a clear public benefit.**
- **All income and property (aside from operation and maintenance) must be used to advance the charitable purpose.**



**Prevention or relief
of poverty or economic
hardship**

**Advancement
of Education**



**Relieving poverty
and economic hardship
by providing free
meals, clothing and
sleeping bags**

**Advancing education
by supporting a school
by the provision of
books and other
learning materials**



**The homeless in
Cork city and
surrounding areas**

**Street children
in Mumbai**



Once you have agreed your organisation's main purpose(s) – i.e. the what, the how, the who and the where – you and the board of trustees should consider **four key questions:**

- ✓ Is your organisation established for a charitable purpose(s) only?
- ✓ Do all of the activities your organisation undertakes (or plans to undertake) relate directly to furthering that charitable purpose(s)?
- ✓ Does your organisation apply all of its income and property towards that charitable purpose(s)?
- ✓ Is your charity's purpose(s) of public benefit?



An organisation's purpose(s) must benefit the public or a section of the public in Ireland or elsewhere. The benefit your organisation's purpose(s) provides should be identifiable.



Excluded bodies

- Political parties or bodies that promote a political party, cause or candidate.
- Organisations established solely for the promotion of athletic or amateur games or sports.




Is your charity name acceptable?

When deciding on a name, please consider if your organisation's name:

- ✓ Is the same or very similar to an existing charity?
- ✓ Could mislead people regarding its purpose or activities?
- ✓ Could lead people to incorrectly believe it is connected to another body?
- ✓ Might cause offence to a reasonable person?



- 
- ✓ Operates in the Republic of Ireland?
 - ✓ Exists for a charitable purpose(s)?
 - ✓ Promotes this charitable purpose(s) **only**?
 - ✓ Carries out all activities to further this charitable purpose?
 - ✓ Exists to benefit the public or a section of the public in Ireland, or elsewhere, through its charitable purpose(s)?
 - ✓ Is not an 'excluded body'



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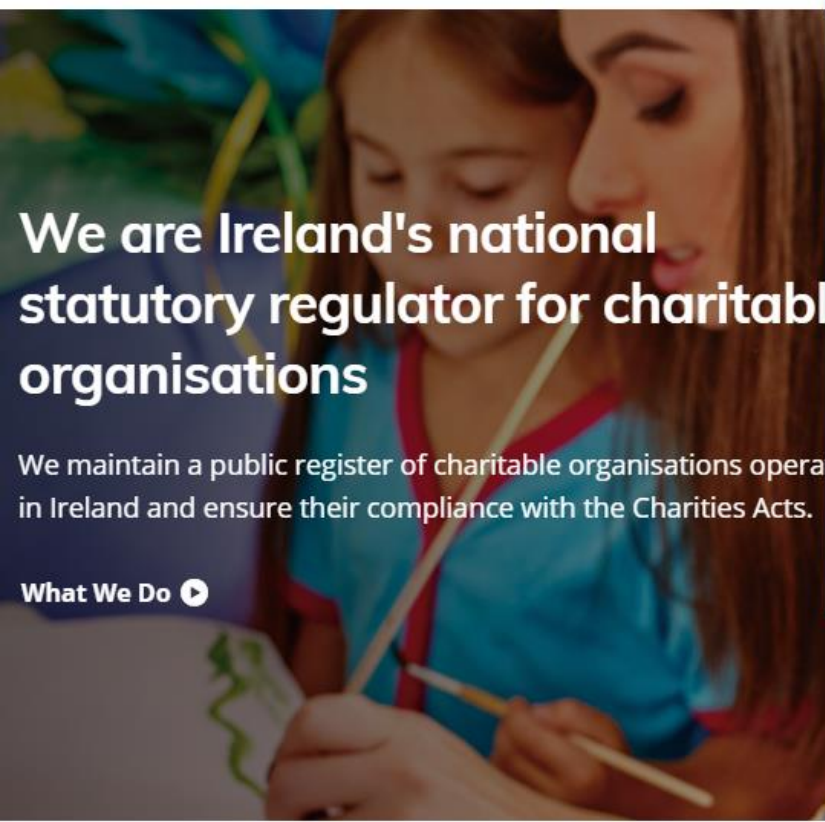
Home

Who We Are

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Information for the Public

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- Apply for Charitable Status
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- Amending Charity Details
- Guidance for Charities**
- Charity Services
- Trustee eLearning
- Frequently Asked Questions (FAQs)
- Financial Action Task Force (FATF)



We are Ireland's national statutory regulator for charitable organisations

We maintain a public register of charitable organisations operating in Ireland and ensure their compliance with the Charities Acts.

What We Do



Small Charities (Simplified) Application

- Introduction
- Details
- Purpose
- Contacts
- Financial
- Trustees
- Further Info
- Declaration

Small Charities (Simplified) Application form

Your organisation must meet all of the following criteria to qualify for this Small Charities (Simplified) Application process*:

- The annual income of your organisation is expected to be less than €20,000 for the foreseeable future
x REQUIRED
- Your organisation does not have 'the advancement of religion' as a Charitable Purpose
- Your organisation was established in the Republic of Ireland and will only operate and carry on activities in the Republic of Ireland
- Your organisation does not own, or intend to own, any land or buildings
- Your organisation does not have, or intend to have, any employees
- The activities of your organisation do not, and will not, involve working with vulnerable groups (including children)

Your application needs to satisfy us that your organisation is a charitable organisation and should register, that it is well organised and that the trustees of your organisation understand their role and responsibilities. You, and all of the trustees of your organisation, should read the guidance documents, available on our website, if you haven't already done so.

Click on 'Help' to open the user guide for more information on how to complete this form and the documents you will be required to upload.



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Duties of a Charity Trustee

Where do the duties come from?

- The governing document (constitution of the charity);
- Legislation (statute); (specific duties Charities Act 2009)
- Common Law
- There are also many other legislative requirements e.g. Health & Safety, Employment Law, Revenue, Data Protection etc. and if a company, company law



“Charity trustees are the people who **exercise control over**, and are **legally responsible** for, the management of a charity”

“the board of trustees of a charity is **collectively responsible** for the oversight of that charity”

“While charity trustees can delegate tasks, they **cannot delegate accountability**”



Not everyone can be a charity trustee

A person may cease to be qualified to act as a charity trustee. Reasons include:

- is adjudicated bankrupt;
- enters into a formal court approved insolvency arrangement with the Insolvency Service of Ireland;
- is convicted on indictment of an offence;
- is a company that is in the course of being wound up.

For further details and a full list of disqualifications from being a charity trustee, please consult section 55 of the Charities Act 2009.

General duties of charity trustees

- Comply with your charity's governing document
- Ensure that your charity's activities advance its charitable purpose(s) only and for the public benefit
- Act in the best interests of your charity
- Act with reasonable care and skill
- Manage the assets of your charity
- Make appropriate investment decisions



Comply with your Governing Document

The main object in your approved governing document sets the parameters for everything your charity does and can do to further its charitable purpose.

For example - if the main object states:

The main object for which the Body is established is to rescue and assist in the rescue of unwanted, abandoned and mistreated dogs and cats, including fostering and rehoming, in Dublin city and county.



A charity must not act outside of its main object

*The main object for which the Body is established is to rescue and assist in the rescue of unwanted, abandoned and mistreated **dogs and cats**; including fostering and rehoming, in **Dublin city and county**.*

- If this charity wants to rescue and rehome any animal other than dogs and cats, then it will need to apply for consent to amend its main object.
- Similarly, if this charity wants to extend its operations to Kildare and Wicklow as well as Dublin city and county, then it will need to apply for consent to amend its main object.



Ensure that your charity's activities advance its charitable purpose(s) only and for the public benefit

- Your charity is approved for one or more charitable purposes.
- You must be able to demonstrate that your charity's activities relate directly to furthering its charitable purpose(s) and that it provides a clear public benefit.
- Any private benefit must be necessary, reasonable and ancillary.
- You cannot promote any other purpose(s) without the consent of the Charities Regulator.

Specific Duties – Charities Act 2009

- Ensure that your charity is registered on the Register of Charities
- Ensure that your charity keeps proper books of account
- Ensure that your charity prepares and submits financial accounts to the Charities Regulator
- **Ensure that your charity prepares and submits an annual report to the Charities Regulator**
- Inform the Charities Regulator if you are of the opinion that there are reasonable grounds to suspect a theft or fraud has occurred in your charity
- Ensure that you comply with directions issued by the Charities Regulator

Annual Report to the Charities Regulator

- All registered charities must submit an Annual Report (return)
 - What your charity has done over the last 12 months to further each of its charitable purposes.
 - Who your charity has helped.
 - How your charity raised and spent funds .
 - Where the benefits of your charity's work were felt.
- All reports will be published on the Register of Charities (if your charity is a company, accounts will be made available via link to CRO)
- File an accurate, complete annual report on time (10 months after financial year end)

Trustee Guidance – eLearning module

trusteelearning.ie

- ✓ Introduction: introduces the course, purpose of the guidelines, learning goals
- ✓ About the Charities Regulator: introduces the Charities Regulator, its purpose and functions
- ✓ About Charity Trustees: defines trustees, describes duties, expectations and disqualification criteria
- ✓ General Duties of Charity Trustees: describes general duties of trustees
- ✓ Duties of Charity Trustees under the Charities Act 2009: legal requirements under the Act
- ✓ Final Points: additional points and course summary



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Any Questions?