

## Introduction

The aim of this guide is to provide prostate cancer support groups with straightforward answers to the questions they might have not only about registering as a charity but also about choosing what type of organisation to set up.

There is a wealth of detailed information on the internet. Some links are provided at the end of this guide which you may find helpful.

This guidance is aimed at groups in England & Wales. For Scotland and Northern Ireland, please see the links at the end.

**Please note whilst every effort has been made to provide good advice, all groups will have their own views as to what will suit them best. This advice is only Tackle's opinion and does not represent legal advice. If you are in any doubt at all, you should consult a legal expert.**

### **Does our group have to register as a charity?**

No. There is no requirement for you to do so.

### **What are the advantages and disadvantages of registering as a charity?**

The key advantages are:

- if you are looking for funding, many grant-giving organisations will expect you to be registered as a charity;
- charities are able to get [VAT relief on certain goods and services](#) eg sealable collection tins and buckets, certain advertising including production costs eg an ad in a newspaper, advertising leaflets, brochures and certain paper materials.

The key disadvantage is:

- you will need to prepare a set of accounts each year and file them with the Charity Commission.

### **Is our group charitable?**

It is almost certain that your group is charitable if:

- It is set up with the aim of providing support to men with prostate cancer and/or their families; and
- There is no intention of making a profit.

### **Our annual income is LESS than £5,000. Should we register?**

The short answer to this is that it is probably not worth it **unless** you have plans to grow. In fact, the Charity Commission will not register you if your annual income is less than £5,000 unless you wish to become a Charitable Incorporated Organisation. If you think your annual income will remain less than £5,000, it is recommended that you:

- Have a constitution. You can find [a model one on the Charity Commission website](#). They also have a Word version.
- [Register with HMRC](#) to allow you to [reclaim tax back on donations](#) including [membership fees](#).

### **Our annual income is MORE than £5,000. Should we register as a charity?**

There is no straightforward answer to this but, if you think that your annual income is going to remain more than £5,000, it is probably worth it. Also, note that if you call yourself a charity (see next point), you must register.

**We don't want to register as a charity. Can we still call ourselves a charity?**

Yes. As long as you adhere to charity law (eg have charitable purposes, can prove public benefit) you may refer to your organisation as a charity. However, you should not use the word(s) "registered" or "charity status" or anything else that may mislead funders, donors or the public. If your charity has an HMRC number you may wish to state this fact eg "our charity is a not-for-profit organisation recognised as charitable by HMRC for tax purposes" but do not quote your actual tax number as this could make your group vulnerable to fraud. Note that if your annual income is more than £5,000, you must register as a charity.

**What is the difference between an unincorporated and an incorporated organisation?**

An **unincorporated** organisation is normally a membership organisation. The advantages are:

- Easy to set up;
- Simply elect local people to manage it; and
- No other registration is required (depending on whether you decide to register as a charity).

BUT, the people who run the organisation can be individually or jointly sued for breach of contract and may incur unlimited personal liability (although this is unlikely where the trustees have acted in good faith and exercised due diligence).

An **incorporated** organisation is likely to be a Charitable Incorporated Organisation or a Company Limited by Guarantee. The main disadvantage is that it is more difficult to set up BUT the people who run the organisation do have limited personal liability.

**Helpful Websites**

<p><a href="#"><u>Charity Commission</u></a></p>	<p>The Charity Commission is responsible for regulating and registering charities in England &amp; Wales. (The Charity Commission equivalent in Scotland is the <a href="#"><u>Scottish Charity Regulator</u></a> and, in Northern Ireland, <a href="#"><u>The Charity Commission for Northern Ireland</u></a>).</p> <p>By law, if you set up a charity you must <a href="#"><u>apply to register it with the Charity Commission</u></a> if:</p> <ul style="list-style-type: none"> <li>• it is a charitable incorporated organisation (CIO) or;</li> <li>• its annual income is more than £5,000</li> </ul> <p>unless it is a specific type of charity that doesn't have to register. The Charity Commission will take action to secure compliance if it identifies a charity which isn't registered but should be.</p> <p>There is a <a href="#"><u>detailed explanation of what constitutes a charity on the Charity Commission website</u></a>.</p>
<p><a href="#"><u>Get Legal</u></a></p>	<p>Provided by solicitors Bates Wells Braithwaite, this excellent site has an exceptional interactive tool for helping you decide what form of organisation is best for you.</p>
<p><a href="#"><u>NCVO</u></a></p>	<p>The NCVO is a large umbrella organisation for voluntary groups including charities. It has an informative section about setting up charities.</p>
<p><a href="#"><u>The Resource Centre</u></a></p>	<p>This is an excellent website written in plain English and is very comprehensive. It has a useful <a href="#"><u>RouteMap</u></a> which you can use to identify what the best structure for your organisation is.</p>
<p><a href="#"><u>Small Charities Coalition</u></a></p>	<p>Another excellent site which answers many, if not all, of the questions you will have (and more!). Start <a href="#"><u>here</u></a>.</p>

**Last Reviewed:** February 2018