



An Rialálaí
Carthanas

Charities
Regulator

What is a charity?



Guidance document

The guidelines have been produced by the Charities Regulator to assist organisations in applying to be registered in the Register of Charities.

Legal Disclaimer

This document is issued by the Charities Regulator under section 14(1) (i) of the Charities Act 2009 to encourage and facilitate the better administration and management of charitable organisations. This document is not, nor is it intended to be, a definitive statement of the law and it does not constitute legal advice. The Charities Regulator recommends that charity trustees consult their governing document and obtain their own legal advice where necessary. The Charities Regulator accepts no responsibility or liability for any errors, inaccuracies or omissions in this document.

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What is this guide about?

This guide tells you about:

- What a charity is
- Charities in Ireland – an overview
- Organisational types of charities
- The Charity Test and how it works
- The Charities Regulator
- The Register of Charities
- Where you can find further information on charities in Ireland

What is a charity?

A charity (or charitable organisation) is an organisation that:

- ✓ Is set up to promote one or more charitable purposes
- ✓ Promotes only that charitable purpose
- ✓ Provides a public benefit

We tell you more about charitable purposes on page 7. And we explain the different parts of the Charity Test that all organisations must pass to be a charity on page 5. This test covers the legal requirements to be a charity set out in the Charities Act 2009.

By law all charities must register with the Charities Regulator.

If an organisation is not registered, it:

- ✗ Must not describe their organisation or its activities as a charity
- ✗ Must not cause people to reasonably believe that their organisation is a charity

To do either is an offence under the Charities Act 2009 and may result in prosecution.

As the Charity Regulator, we are responsible for registering and regulating charities that operate in Ireland. You can read more about us and about the Register of Charities on page 14.

Relevant legislation

Note: Where we refer to the Act in this guide, we mean [the Charities Act 2009](#).

Charities in Ireland – an overview

Ireland has a strong charity sector that plays a central role in our society. There are currently more than 11,500 registered charities in Ireland. These range from small, local, volunteer-only charities to large, national or international organisations with thousands of employees.

Charities have different ways of engaging with the public. In some cases, they interact with the public regularly and have a range of functions, such as:

- Providing charitable services to specific (and often vulnerable) groups of people, both in Ireland and abroad
- Delivering State-funded public services (for example, housing, health, and social care)
- Creating a community of charity workers and volunteers

Many people use the services of a charity every day. However, we know from research that some people don't realise:

- The size and diversity of the charity sector in Ireland
- Some of the services or facilities that they or their family use are provided by charities
- Who receives the benefits or support of charities (their beneficiaries)

Did you know that the following organisations are usually registered charities?

- Schools
- Universities
- Hospitals
- Family resource centres
- Community centres

If you want to find information on a charity registered in Ireland, you can visit the [Register of Charities](#).

Organisational types of charities

There are many different legal forms that a charity can take in Ireland. We call these organisational types. The most common types for charities include:



Company limited by guarantee (CLG)



Unincorporated association



Trust



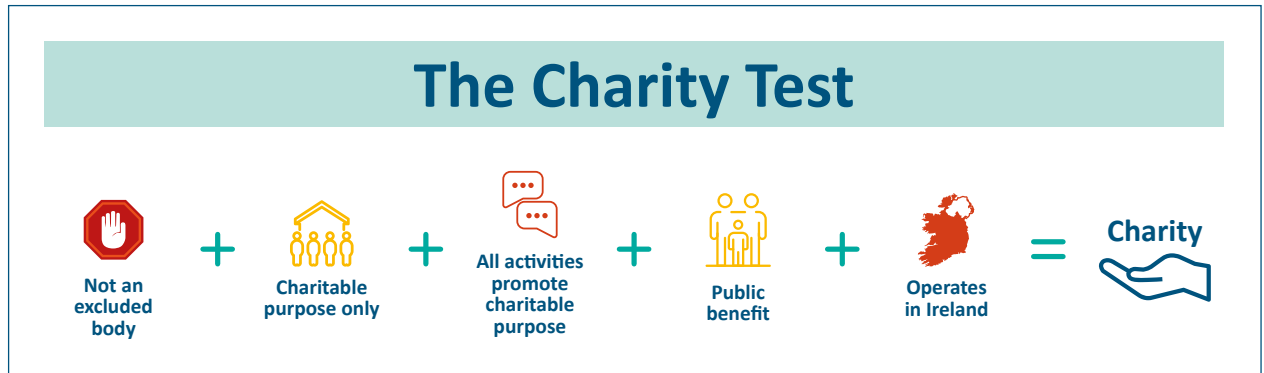
School (as defined in the Education Act 1998)

Each charity chooses its own organisation type. When deciding which type is best for them, they should think about:

- Their charitable purpose(s)
- The size of their organisation
- The complexity of their organisation
- What the charity's activities are
- Whether or not the organisation owns property



The Charity Test



Since 2014, all organisations that wish to register must show that their charity meets the requirements of the Charity Test. We explain the conditions below.

1. They are not an excluded body



‘Excluded bodies’ cannot be registered as charities. According to the Act, these include:

- ✗ Any body of people set up for and existing for the sole purpose of promoting athletic or amateur games or sports
- ✗ Political parties, or a body that promotes a political party or candidate
- ✗ A body that promotes a political cause, unless the promotion of that cause relates directly to the advancement of the charitable purposes of the body (you can read more about this in our [Guidance on Charities and the Promotion of Political Causes](#))
- ✗ A trade union or a representative body of employers
- ✗ A chamber of commerce
- ✗ A body that promotes purposes that are:
 - Unlawful
 - Contrary to public morality
 - Contrary to public policy
 - In support of terrorism or terrorist activities, whether in the State or outside the State, or for the benefit of an organisation, membership of which is unlawful

Examples

1. Excluded body: Sports

Can the following organisation register as a charity?

A sports hall where the main aim of the organisation is to provide facilities for amateur sports and gym facilities for other fitness classes.

✗ No, it is an excluded body because...

According to the Act, an organisation that is set up solely to promote athletic or amateur sports is an excluded body. As the main aim of the sports hall is to provide facilities for sporting activities, it will not pass the Charity Test.



2. Excluded body: Political

Can the following organisation register as a charity?

An organisation set up only to lobby local councillors and national politicians to oppose new legislation that affects the primary school national curriculum. The organisation believes the legislation will damage the education of students.

✗ No, it is an excluded body because...

The organisation was set up mainly to oppose a change in legislation. This is a political cause. This organisation would be considered an excluded body and would not pass the Charity Test.



2. Charitable purpose only



A charity must be set up for one or more charitable purposes only. If an organisation does not have a charitable purpose, it cannot meet the Charity Test.

What is a 'charitable purpose'?

An organisation's charitable purpose is what they set it up to achieve. They will normally set out this purpose in the objects clause of a charity's constitution (or governing document). We tell you more about a charity's constitution on page 13.

Section 3 of the Act sets out the specific charitable purposes that are permitted and these are listed below. An organisation must meet at least one to be registered as a charity. We explain these purposes further in [our separate factsheet](#).

1. Prevent or relieve poverty or economic hardship
2. Advance education
3. Advance religion
4. Any other purpose that is of benefit to the community, which includes to:
 - a. Advance community welfare, including to relieve those in need by reason of youth, age, ill-health or disability
 - b. Advance community development, including rural or urban regeneration
 - c. Promote civic responsibility or voluntary work
 - d. Promote health, including preventing or relieving sickness, disease or human suffering
 - e. Advance conflict resolution or reconciliation
 - f. Promote religious or racial harmony and harmonious community relations
 - g. Protect the natural environment
 - h. Advance environmental sustainability
 - i. Advance the efficient and effective use of the property of charitable organisations
 - j. Prevent or relieve the suffering of animals
 - k. Advance the arts, culture, heritage or sciences
 - l. Integrate people who are disadvantaged, and promote their full participation in society

If an organisation has more than one charitable purpose, they must be able to identify the public benefit associated with each purpose.

Certain 'not-for-profit' organisations

Although charities are 'not-for-profit' organisations, not all 'not-for-profit' organisations are charities under the Act. An organisation that does not meet the Charity Test will not be a charity even if it operates on a not-for-profit basis.

Under the Act a charity must:

- ✓ Be set up to promote one or more charitable purpose
- ✓ Promote only that charitable purpose
- ✓ Provide a public benefit

An organisation that has no charitable purpose will not be a charity even if it operates on a not-for-profit basis.

Examples

1. Not charitable purposes – Tourism

Is the following a charitable purpose?

A not-for-profit organisation established to promote tourism in a village. The organisation wishes to run a tourism kiosk in the town as well as work with local attractions and hospitality businesses to improve the tourism appeal of the village.



✗ No, it is not because...

This organisation would not meet the Charity Test as the promotion of tourism is not a charitable purpose.

Examples

2. Charities with mixed purposes

Some organisations may have mixed purposes, where some of the organisation's activities may be charitable and other activities are not. Such an organisation would not pass the Charity Test as a charity must only promote charitable purposes.



Can the following organisation register as a charity?

A professional membership organisation in the southeast of Ireland. Its members pay to join and must renew their membership yearly. The organisation:

- Advances education through courses
- Advances their members' interests by providing a career framework, representing them at national and international level
- Provides career advice and opportunities for progression to its members through social and work networks

While the advancement of education is considered a charitable purpose, the main focus of the organisation is to benefit its members.

✗ No, it cannot because...

This organisation would not meet the Charity Test as it is an organisation with mixed purposes. While the advancement of education is a charitable purpose, promoting the career interest of its members is not. It would be difficult for the organisation to prove that it was providing a public benefit if the only people who benefit were paid members of the group.

Can the following organisation register as a charity?

An organisation that primarily provides football training to children for a weekly fee. Once a week, it also trains refugee children for free as a means of promoting social integration.



✗ No, it cannot because...

This charity would not meet the Charity Test. Under the Act, sport is not considered to be a charitable purpose, whereas training refugee children for free would be. This organisation would not pass the Charity Test as its purposes are not exclusively charitable – it has mixed purposes.

3. All activities promote charitable purposes



Charities are different to other types of organisations as they are set up to achieve a charitable purpose and must only promote that charitable purpose.

This means that all their activities must advance their purpose. For example, a charity advancing the arts may engage in activities such as theatre performances.

A charity's activities must support the charity's purpose. For example, if a charity is advancing the prevention or relief of the suffering of animals and sponsors an arts festival, this would not be allowable as it does not align to the charitable purpose of the organisation. This is because the charity has been set up to engage in one charitable purpose, and to use its funds for a different activity would go against donor intent.

If a donor is providing money to an animal shelter with the intention of helping animals, they have not donated that money with the intention of supporting an arts festival.

It is important to remember that a charity's activities include how it spends its money. A charity must use all its property, which includes its money and income, to advance its charitable purpose.

4. Public benefit



What is public benefit?

The charitable purposes of an organisation must benefit the public or a section of the public in Ireland or abroad. Public benefit is what makes charities different from other organisations. The benefit to the public must be recognisable to everyone.

- If an organisation has more than one charitable purpose, you must be able to identify the benefits associated with each purpose.
- If an organisation does not provide a public benefit, its purpose cannot be considered charitable.

When an organisation is considering public benefit it should think about:

1. Are there any limitations on who may benefit?

For example, if an organisation provides musical instruments to disadvantaged children, the benefit is limited to disadvantaged children instead of all children or all those who are disadvantaged.

2. Is there any charge payable for any service provided?

If there is a charge payable for a service, an organisation should consider whether it is likely to limit those who may benefit.

3. Is there any private benefit?

A private benefit is one that goes to an organisation or an individual rather than a member of the public. According to the Act, a private benefit is permitted if it is 'reasonable in all the circumstances, and is ancillary to and is necessary for the public benefit'. Ancillary in this context means the private benefit is secondary or subsidiary to the public benefit.

Example

Staff salaries would be an example of private benefit as employees are not the charity's beneficiaries. Private benefit must be reasonable in all circumstances, ancillary and necessary for the delivery of the organisation's charitable objective.

There are two aspects to public benefit:

1. The value the charitable activity or activities create
2. Who gets the benefit and value of those charitable activities

A public benefit may benefit everyone – the general public – or a section of the public. An organisation can meet the public benefit test even if the public it benefits is a small section of the public.

Charities are required to benefit the public or a section of the public. Those fundraising for an individual, or a small number of identified individuals, will not meet the Charity Test. For example, a charity cannot be set up solely to help one person or individual who suffers from a rare disease. However, a charity could be set up to support all those who suffer from the rare disease. We will explore this more in the following page.

Examples

1. Fundraising for an individual

Can the following organisation register as a charity?

An organisation set up to fundraise for an individual who requires specialist medical surgery not available in Ireland.

✗ No, it cannot be registered because...

The organisation is set up to fund an individual which does not provide a wide enough public benefit. If the organisation was set up to provide assistance to those with the same condition, then it may meet the test.



Examples

2. Private versus public benefit

Can the following organisation register as a charity?

A residential care centre for people with disabilities that allows family members to stay overnight occasionally in the centre.

✓ **Yes, it can be registered because...**

The private benefit to the family members of staying overnight is 'ancillary or secondary to' the public benefit of the charity to support people with disabilities.



5. Operates in Ireland



What does 'operates in Ireland' mean?

If a charity operates or plans to operate in Ireland, it must apply to be registered. However, this does not mean that the people (or section of the public) that this charity will benefit need to be in Ireland.

In addition, if a charity that is registered in Northern Ireland intends to operate on an all-island basis, it must apply to the Charities Regulator to be registered.

If an organisation's main beneficiaries are outside Ireland, organisations can show that their organisation operates in the State if:

1. The principal place of business is located in Ireland (meaning an organisation directs, controls and coordinates its activities in Ireland)
2. Most of the trustees are located in Ireland
3. The organisation has an Irish bank account

Example

Can the following organisation register as a charity?

An international humanitarian organisation delivers aid and assistance in response to humanitarian crises and poverty in countries worldwide.

✓ **Yes, it can be registered because...**

While it operates globally, it has its headquarters in Dublin and so passes the Charity Test of operating in Ireland even though its main beneficiaries are outside Ireland.



What is a charity's constitution?

All charities must have a constitution. An organisation's constitution or governing document are the 'rules', depending on the legal structure of an organisation. The constitution should give a concise description of:

- What the charity aims to achieve, this is its charitable purpose
- How it plans to achieve this, these are its charitable objects
- Who will benefit

A charity's constitution must legally:

- Use all its property (both real and personal) for its charitable purposes
- Make it clear that the organisation is set up solely for charitable purpose(s)

'Real property' means land, buildings or other unmovable property fixed to land.

'Personal property' means goods or other movable property, including money.

An organisation's constitution helps them to meet the requirement that they only promote their charitable purposes.

Our **Registration Guidelines** explain what should be included in a constitution and includes links to draft constitutions for certain types of organisation.

Section 40 charities

What are section 40 charities?

When the Charities Regulator was established on 16 October 2014, many organisations held CHY numbers. Revenue gives a CHY number to a charity and it means that organisation does not have to pay certain taxes.

In line with section 40 of the Act, these organisations were automatically deemed registered charities when the Charities Regulator was established. These are referred to as section 40 charities.

While these charities were not subject to the Charity Test, as detailed in the Act, they are subject to the same legal requirements as charities that have been registered by the Charities Regulator.

The Charities Regulator

Who we are and what we do

The Charities Regulator is an independent statutory body established on 16 October 2014. We are responsible for registering and regulating charities that operate in Ireland.

Our main functions include:

- Maintaining a public register of charities
- Making sure charities comply with the Charities Act
- Increasing public trust in the running of charities
- Publishing guidelines, codes and model documents to help charities and charity trustees to comply with the Act
- Making sure charities are accountable to donors, beneficiaries and the public
- Providing our stakeholders, including the Minister and the public, with information about registered charities

Under Part 4 of the Act, we can also appoint inspectors to investigate the affairs of any charity if this is needed.

We also provide services to certain charities. These can include:

- Authorising the appointment of new charity trustees
- Authorising the sale of a property where the charity does not have the power to do so
- Approving Cy-Près schemes (these are schemes that redirect charitable funds when the original purpose of a trust becomes impossible to achieve)

You will find a full list of our functions in **Section 14 of the Charities Act 2009**.

The Register of Charities

We maintain a Register of Charities that lists all charities that are registered in Ireland on or after 16 October 2014. If a charity was registered after this date but no longer exists, its information is also available when searching the Register.

As a reliable source of information on charities in Ireland, the Register helps us to build public trust and confidence.

The Register of Charities includes the following details about a charity:

- Its charitable purpose and aims
- The names of its trustees
- How many people it employs
- How many volunteers it has
- Any annual reports it has filed
- Certain financial information
- Governance Code status
- Its classification

Further information

If you would like more information on anything we have mentioned here, we have a wide range of information and guidance on our website. This includes:

- [The Public Register of Charities](#)
- [Registering a charity](#)
- [Reports and Publications](#): information on the charity sector or the work of the Charities Regulator
- [How to raise a concern](#) about a charity in relation to what you have read above
- [The Charities Act 2009](#)



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