

## Closing a registered charity

If the organisation is a **company limited by guarantee** as well as a charity you will need more information to close the organisation so please ask us for it

### **The law on dissolving, winding up or closing a charity**

Most of the charities on the Register of Charities are required to be there, because they have charitable aims and enough income to require registration, and the only circumstances in which they can be removed are if they have dissolved or wound up.

The Charities Act 1993 and 2006:

- require the trustees of registered charities to inform the Charity Commission if their charity ceases to exist; and
- require the Charity Commission to remove from the Register any charity that has ceased to exist or does not operate

Failure to inform the Charity Commission that a charity has dissolved or wound up will lead to enquiries being made about what has happened to the charity and its assets. The Charity Commission may take action against the former trustees if the assets have been wrongly applied. Former trustees remain responsible for decisions taken while they were in office and the Charity Commission can make enquiries about any actions they have taken even after their charity has wound up or dissolved.

### **First steps**

An organisation facing closure should take steps to reduce its liabilities. This may include giving notice of redundancy to employees. Issuing redundancy notices is disruptive and demoralising, but not doing so may put the members of the governing body at risk of personal liability. A balance must be struck between prudence and realism.

### **Dissolution clause**

An outline of the steps necessary to close down the charity should be contained in the dissolution clause in the constitution of the charity. If there is no dissolution clause the Charity Commission will need to implement one for you. To access this help you should contact the Charity Commission for advice on how to proceed (contact details at the end of this information sheet). The committee should do this before making any recommendations to the members or undertaking any further action.

### **Providing there is a dissolution clause, the process is:**

The trustees recommend closure to the members at a Special General Meeting; the meeting must be quorate. The definition of quorate varies from one organisation to another; there should be a definition in the constitution.

The trustees must give members the period of notice of the date of the Special General Meeting required by the constitution. The notice must state that the business of the meeting is to discuss the committee's recommendation that the charity be closed.

**Inquorate meeting**

If an inquorate general meeting has been held or the meeting is expected to be inquorate the trustees must ask for written advice from the Charity Commission. The letter to the Charity Commission should state the situation (either good reason to believe the meeting will be inquorate or was called and was inquorate). The Charity Commission will not deal with this matter by telephone.

**Quorate meeting**

Minutes of the meeting must be kept and must record the wording of the special resolution. The minute of the meeting should say something like

*A Special General Meeting of the above named organisation, called for the purpose of recommending closure to the members was duly convened and held at (place) ..... on (date) ..... It was agreed by the members present that the organisation should close. The members of the committee were instructed to proceed with closing the charity in an orderly and proper manner.*

The minutes or resolution should also outline how the assets of the charity will be allocated after the settling of any outstanding liabilities.

**After the meeting**

- The trustees should appoint someone whose job it is to ensure that assets and liabilities are identified. This is usually the treasurer
- As a matter of common-sense and courtesy, any staff members should have been informed of the situation from the time it became a possibility that the organisation might close. Redundancy issues should have been dealt with by the committee, in line with current employment legislation
- The final accounts must be prepared, before the formal winding up
- Liabilities should be satisfied eg staff salaries, redundancy payments, outstanding bills paid
- Any money remaining after all debts have been dealt with must be given to another registered charity (or divided between several charities) in accordance with the charity's constitution, unless the Charity Commission agrees otherwise
- If there is not enough money to satisfy the liabilities, professional advice must be taken from the organisation's accountant, solicitor or an insolvency practitioner

**The following people and organisations should be formally told**

- employees, employees' representative and unions
- the organisation's accountant and auditor or independent examiner
- the organisation's solicitor
- the organisation's insurers or insurance broker
- the organisation's bank manager
- the organisation's funders

- the Charity Commission (see below)
- immediate past committee members (current committee members should already know)
- anyone with a fixed charge or mortgage over any property the organisation owns
- all creditors
- service users
- other organisations, such as NCVS, that the organisation is involved with or are members of
- any other organisation or person that the trustees think should be told

### **When the organisation has been formally wound up**

- the bank account should be closed
- all paper records that do not need to be kept should be shredded (not just thrown away). See 'records retention' on page 4 of this sheet for further information
- all computer hard drives should be cleaned or reformatted so that documents relating to the organisation are no longer available
- all headed notepaper, compliment slips etc should be destroyed
- the website should be closed down
- all email accounts should be closed
- the trustees must inform the Charity Commission (see next paragraph)

### **Informing the Charity Commission**

If the income of the charity in the previous full year of operation was less than £10,000 and assets were valued at less than £200,000, the Charity Commission should be sent one of the following

- a completed declaration form - SCU2 (available from the Charity Commission) or
- a certified copy of the resolution or minutes of the meeting at which the decision to dissolve the charity was taken. To certify this document, the person authorised to do so by the trustees (a trustee or their secretary or clerk), should write on it "I certify that this is a true copy of [and a brief description of the document]" and sign and date it, indicating the capacity in which they have signed

If the income of the charity in the previous full year of operation was more than £10,000 the Charity Commission should be sent

- a copy of the resolution to wind up the charity
- a final set of the independently examined accounts
- a statement of the final distribution of assets if this is not shown in the accounts (this should be signed by the trustees and also the external auditor or independent examiner)

The Charity Commission will only remove the organisation from the Register of Charities when they are satisfied that everything has been closed down properly.

**Records retention**

After a charity has been dissolved or wound up, the trustees must arrange for its accounting books and records to be kept for:

- at least three years after the year they were made if it is a charitable company; or
- at least six years after the year they were made if it is an unincorporated charity.

The accounting records that must be kept include cash books, invoices, receipts and any similar record of the charity's financial activities. There is more detail on keeping records on the website of NCVO, [www.ncvs-vol.org.uk](http://www.ncvs-vol.org.uk) search for 'document records retention'.

The **Charity Commission** can be contacted:

by a telephone helpline which offers general advice Tel:0845 300 0218 (local call rate).

Specific advice relating to your charity can be requested either by email:

[enquiries@charitycommission.gsi.gov.uk](mailto:enquiries@charitycommission.gsi.gov.uk)

or by post:

Charity Commission Direct  
PO Box 1227  
LIVERPOOL  
L69 3UG

There is a lot of information on the Charity Commission website relating to the dissolution of a registered charity, [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)

Much of this information is extracted from 'The Voluntary Sector Legal Handbook' by Adirondack & Taylor, which contains more detailed and clearly written information on all aspects of closure, a copy of which is available in the NCVS library.

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