Bath & North East Somerset Council

Bath & North East Somerset Council
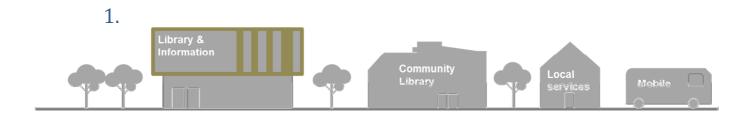
Future of Modern Libraries

LEARNING OFFER   DIGITAL OFFER   INFORMATION OFFER   READING OFFER

A guide to setting up a community organisation

For organisations interested in managing a Community Run Library

1.

Library & Information

Community Library

Local services

Mobile

A guide to setting up a community organisation

This guide has been prepared by Bath & North East Somerset Council to provide support for organisations wishing to develop a Community Run Library.   While every effort has been made to ensure the accuracy of the information given in the guide, the Council does not accept liability for loss of any kind resulting from the use made by any person of such information.

1.   Set up a charitable organisation

Good governance is fundamental to ensure a charity's success and be compliant with the law and relevant regulations.

When setting up a charity there are a number of steps you will need to take:

1. Find trustees for your charity - you usually need at least 3
2. Make sure the charity has 'charitable purposes for the public benefit'
3. Choose a name for your charity
4. Choose a structure for your charity
5. Create a 'governing document'
6. Register as a charity if your annual income is over £5,000 or if you set up a charitable incorporated organisation (CIO).

2.   Choosing the right structure

Your charity will be defined by its governing document (see 3 below). The structure will affect how you operate, for instance:

- its management structure and membership
- contracts or employment
- personal liabilities

There are four main types of charity structure:

- charitable incorporated organisation (CIO)
- charitable company (limited by guarantee)
- trust
- unincorporated association

You need to choose the right structure for your charity, depending on whether you need it to have a corporate structure and whether you want to have a wider membership. Some charity structures are corporate bodies. If you choose a structure that forms a corporate body, the law considers your charity to be a person in the same way as an individual.

This gives your charity the legal capacity to do many things in its own name that a person can do, such as:

- employing paid staff
- delivering charitable services under contractual agreements
- entering into commercial contracts in its own name
- owning freehold or leasehold land or other property

If your charity isn't a corporate body ('unincorporated'):

- the trustees are personally liable for what it does
- it won't be able to enter into contracts or control some investments in its own name
- two or more trustees, a corporate custodian trustee or the charities' land holding service will have to 'hold' any land on your charity's behalf

3.   Model governing documents

The Charity Commission provides a range of model governing documents for various types of charities which include:-.

- Model constitution for CIO with voting members other than its charity trustees ('Association' model)
- Model constitution for a CIO whose only voting members are its charity trustees ('Foundation' model)
- Model memorandum of association for a charitable company not having a share capital
- Model articles of association for a charitable company
- Model trust deed for a charitable trust
- Model constitution for a small charity
- Model constitution for a small charity (Word version)
- Model constitution for an unincorporated charity

If you're setting up a charity associated with a national organisation, it may have its own governing document template you should use.

4.   Policies and Procedures

The NCVO recommends that organisations need to consider adopting the following policies:-

- As a minimum an organisation of any size must conduct a health and safety risk assessment. Whilst by law you are only required to have a written health and safety policy if you employ five or more people, it is considered good practice to produce one.

- Safeguarding policy for children and young people and/or vulnerable adults having followed a process to determine what is relevant and applicable. See more details in Section 6.

- Privacy Policy including Data Protection and GDPR.

- Equality & Diversity Policy with particular regard to anti-discrimination and harassment of employees and volunteers as well as service users. See more details in Section 11.

- Risk management including assessment and mitigation.

- Finance – including a financial procedures manual and a reserves policy.

- Board basics – a Trustee Code of Conduct; Conflict of interest policy; and Trustee Expenses policy.

For more information and guidance on these policies and other policies, visit NCVO website.

5. How to apply to register a charity

You can apply to register your charity by using the Charity Commission's on-line service. If you are applying to register a new CIO, check that its name does not require Companies' House approval.

6. Building Resilience

The Charity commission has written guidance for trustees of charities of all sizes and types, it details:

- what the trustees' duties are towards the interests of their charity
- what is meant by the term 'reserves'
- the importance of a reserves policy
- how to develop a policy on reserves for smaller and larger charities
- how trustees must report their reserves policy in their annual report in a way that meets the requirements of the Charities SORP and the requirements of the Regulations

7. Social Enterprise

The term "Social Enterprise" describes the purpose of a business, not its legal form. It is defined (by Government) as "a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners". A Guide to Legal Forms of Social Enterprise 2011

There are many different types of legal structures for Social Enterprise. Other useful sources of information about setting up a social enterprise are available through Social Enterprise UK.

8. Useful reference documents

- Gov.Uk website reference – Setting up a Charity
- Community Knowledge Hub – Locality Capital and Revenue Costs and Income
- Community Managed Libraries Network - Legal & Governance
- Guidance on Community Managed Libraries: good practice toolkit - Guidance prepared by heads of library services, community libraries and local communities.
- Directory of Social Change – practical information and resources on fundraising, marketing, governance, management and legal
- B&NES website - Information and reference points for voluntary sector organisation
- Social Enterprise UK – Information and resources for social enterprise organisation
- Audit West - Audit West provide organisations with independent advice and services relating to GDPR, auditing, compliance and training and advice.