



**Registered Charity -
Limited Company?**

Financial Management

Group/organisation should consider becoming a registered charity limited by guarantee, whilst registering as a charity is relevantly easy, registration as a company limited by guarantee is more complicated. A solicitor would complete both sets of paperwork, therefore it is recommended that you employ a solicitor for this.

If you only use the solicitor for registration as a company limited by guarantee, then it is recommended that you complete the registration as a charity first as your charity Memorandum will not have to be amended.

Becoming a Registered Charity

This is a formal recognition by the Revenue Commissioners that the Service is being operated for non-profit.

The Pre-School Services Committee should register with the Revenue Commissioners as a Registered Charity.

Why?

- Banks will usually give consideration to Registered Charities to waive fees or pay interest on Current Accounts.
- Having a Registered Charity Number gives increased status to a Group when making Submissions or Fund-raising.

How?

- Draw up a draft Constitution or copy Irish Pre-School Playgroups Association – the Early Childhood Organisation, see appendix (IPPA) Playgroup Constitution.
- Present the draft Constitution to an AGM (Annual General Meeting) or an EGM (Extraordinary General Meeting) and have it, or an amended version of it, passed by a two third majority of people entitled to vote at the meeting.

Part 3 _____ Procedures to becoming a Registered Charity/Limited Company

- Send a copy of the agreed constitution together with a covering letter requesting registration as a Charity to:
Revenue Commissioners, Charities Unit
Government Offices, Nenagh, Co. Tipperary.
- You will receive a letter stating you are registered and giving the Charitable Status Number.
- Keep the letter and a copy of the Constitution in a safe place for reference by future Committee Members.

Note:

- The IPPA, the Early Childhood Organisation, constitution has outline approval from the Revenue Commissioners and therefore will be processed easily. If you draw up your own draft constitution, it may take longer to be processed by the Revenue Commissioners or there may be queries to sort out.
- If, at a future AGM/EGM, any amendments are made to the Constitution, it must be done with the approval of the Revenue Commissioners. Otherwise, the Group may lose its Charitable Status.*

This is why it is recommended that you apply for charity status prior to registration as a company



- Although Registered Charities do not have to make Annual Income Tax Returns they must keep accurate financial records and present Annual Accounts to the members of the Group in accordance with their Constitution
- The Revenue Commissioners have the right to inspect the group's books to ensure that the constitution is being observed.

Why become a Limited Company

It is advisable for voluntary and community groups, which receive funding, hold property and/or employ staff to have a legal structure.

The legal structure that best suits the circumstances of non-profit making organisations is the company limited by guarantee.

A group/organisation, which is registered as a company limited by guarantee, is recognised as having a separate legal identity as distinct from that of its members.

This means that it can:

- Buy and own property in its own name
- Enter into contracts in its own name
- Employ people in its own name
- May take, or defend, legal proceedings in its own name
- Protect members of the management committee from personal liability
- Borrow money in its own name

As it is non profit-making there are no shareholders and any profits are reinvested in the company. All members must guarantee to pay a nominal sum (usually • 1 - • 5) if the group/organisation should run into debt.



Why become a company limited by guarantee?

- To protect individual members from legal liability for the group/organisation; and
- To have a legal identity.

If a community or voluntary group/organisation does not have a legal identity the individual members of the management committee can be held responsible for

Part 3 _____ Procedures to becoming a Registered Charity/Limited Company

the payment of the group/organisation's debts or can be sued on behalf of the group/organisation.

This is obviously a high-risk situation for management committee members particularly if the group/organisation has a substantial budget, employs staff and rents or owns property.

A group/organisation which is a company limited by guarantee has a legal identity and as a result the individual members are protected from being sued for debts - Thus each individual member's liability is limited to the • 1 - • 5.

How to become a Company Limited by Guarantee:

A group/organisation can become a company limited by guarantee by registering with the Companies Office. It is advisable for group/organisation to get the help of a solicitor or accountant for this.

In order to become a company limited by guarantee the group/organisation must do the following:

- Check with the Companies Office that the proposed name of the company is acceptable, i.e. that it is not the same as or too similar to the name of another company
- Draw up a constitution for the company in the form of two documents, the Memorandum and the Articles of Association (see below*)
- Get the signature of seven subscribers (see below**)
- Send the signed memorandum and articles of association, the signatures of the subscribers and the registration fee to the Companies Office

Part 3 _____ Procedures to becoming a Registered Charity/Limited Company

Memorandum of Association* are the objectives and aims of the group/organisation, listing a range of activities which the company is legally allowed to do i.e. to purchase equipment, to raise money, etc. They should also include:

- A clause stating that the liability of members is limited and specifies the nominal amount which all members will contribute, (• 1 - • 5)
- Names and addresses of the subscribers**. The subscribers are the first members of the company; there must be at least seven

Articles of Association - general list the rules of the group/organisation including:

- Electing the board of directors
- Keeping accounts
- Roles of officers
- Running meetings
- Number of members
- Who are the members

It is advisable to keep the rules as broad as possible so that you will not have to change them if and when your group/organisation changes.



The on-going requirements for companies limited by guarantee:

The Role of the company secretary is to ensure that the group/organisation keeps the rules as set down in the Articles of Association.

These are standard requirements of any good group/organisation.

Part 3 _____ Procedures to becoming a Registered Charity/Limited Company

Board of Directors:

The members of the company at the AGM normally elect the board of directors. Each group/organisation can decide how the committee will be elected, the term of office and how many places there will be on the committee,

The board of directors are legally required

To act in the best interest of:

- The company
- Its members
- Its employees

DIRECTORS- must ensure that the company is run responsibly and according to its aims



Meetings:

All members are entitled to attend general meetings of the company, (including the AGM)

It is through these general meetings that the members control the overall management of the company.

Annual General Meeting (AGM):

The company must have an AGM within eighteen months of becoming a company and at least fifteen months from then on. Members must be given at least 21 days notice of this meeting.

Minutes of Meetings:

The company must keep minutes of all

- General meetings
- Board meetings
- Sub-committee meetings of the board of directors

The minute book for the general meetings must be kept at the registered office of the company and be open for inspection by its members.



Part 3 _____ Procedures to becoming a Registered Charity/Limited Company

Annual Returns:

The company must make an annual return to the Companies Office after its first AGM and in each calendar year after that.

Accounts:

The annual return must be accompanied by the company's audited accounts, auditor's report and director's report.

Proper books of accounts with records of all income and expenditure must be kept.

Auditors:

The company must appoint auditors to audit the company accounts at the AGM, The auditor cannot be a company director or secretary or a close relative, employee or spouse of either.

Register of Members and Directors:

The company must keep two registers

- A list of the names of all company members; and
- A list of the names and addresses of all company directors

These registers must be kept up to date. The registers should be kept at the registered office to the company.

Stationery:

The company stationery must show

- The full company name
- The names of its directors
- The place of registration
- The registered number of the company



Part 3 _____ Procedures to becoming a Registered Charity/Limited Company

Changes

The Company must inform the Companies Office of any changes of directors, company secretary or alteration to the Memorandum and Articles of Association.

Cost:

The registration fee to the Companies Registration Office is •60 plus $\frac{1}{2}$ % of issued shared capital (minimum •1), however this does not include the cost of the solicitor or accountant

Legal Law Advisors
01 8731455 will also issue
blank Memorandum and
Articles of Association (approx
cost • 5.20)



A copy of the Irish Pre-School
Playgroups Association - the Early
Childhood Organisation
Constitution for a committee managed
Playgroup can be obtained directly
from them.

