

# Q&A

## Q&As regarding Charities

*Last updated August 2024*

*We receive a lot of question regarding charitable trusts from clients and people considering setting up a charitable trust. Below are answers to the most frequent questions we receive. Charitable trusts offer a lot of flexibility and the answers to the questions below are assuming your rules or trust deed do not alter the default positions.*

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### Q1: What is a charitable trust?

A charitable trust is a legal structure that holds and protects assets for charitable purposes. A charitable trust is created by the execution of a trust deed or rules. We described it more [here](#).

### Q2: What is a trust deed?

A trust deed is the founding document for a charitable trust which some people call the “rules” or even “constitution”.

### Q3: What are charitable purposes?

The reason a charitable trust is set up is to advance charitable purposes. There are four categories of charitable purposes recognised by the Charities Act 2005:

1. Relieving poverty;
2. Advancing education;
3. Advancing religion; and
4. Other purposes beneficial to the community.

Find out more [here](#).

### Q4: What and who is a donor/settlor and does my charitable trust need one?

The donor/settlor is the person or entity which initiates the creation of the trust and gives the initial money or property and so, creates the trust fund.

Yes, you do need one or more people (or entities) to do this.

### Q5: What is the trust fund?

The trust fund is the sum of money or property which the charitable trust holds and uses to advance the charitable purpose. We provide for an amount of \$10 which should go in the Trust’s account.

### Q6: Who are trustees?

A trustee is an individual or organisation that is responsible for managing the trust fund and employing it to advance the charitable purposes of the trust.

### Q7: How many trustees does my charitable trust need to have?

If the trustee is an organisation, a single organisation can be a trustee. For individuals, two or more are needed. In theory you could have 1 trustee.

**Q8: Is there a term limit for trustees?**

There is no maximum or minimum term limits unless you put them in the trust deed.

**Q9: Who can be a trustee?**

A trustee is anyone who is over the age of 16, has not been convicted of a crime involving dishonesty, and is not an undischarged bankrupt.

**Q10: Can trustees be employed by the charitable trust?**

Yes, trustees can be employed or provide professional services to the charitable trust if permitted by the trust deed. The decision to be employed or provide professional services to the trust should be a decision made by other trustees, to avoid conflicts of interest.

**Q11: Can I be paid for being a trustee?**

The default position in the Trusts Act 2019 is that trustees aren't paid for acting as a trustee, but the default position in the Act can be amended by the trust deed.

**Q12: Does my charitable trust need to update its rules following the Trusts Act 2019?**

We recommend that your trust deed is updated to be in line with the new Trusts Act, however, updating is not required.

**Q13: If we update our trust deed, will this affect our charity registration status?**

So long as the charitable nature of the purposes are not modified, the charity registration status will not be affected. The new version will need to be uploaded.

**Q14: What can a charitable trust own?**

A charitable trust can own any property or asset.

**Q15: Does the charitable trust need to have an annual general meeting?**

There is no requirement to hold an annual general meeting for charitable trusts.

**Q16: Does the charitable trust need a common seal?**

Yes, a common seal is required by the Charitable Trusts Act 1957 (see our article [here](#)).

**Q17: How much does it cost to set up a charitable trust?**

It depends how complicated it will be - give us a call or email and we'd be happy to provide a quote.

**Q18: Is a charitable trust automatically registered with Charities Services?**

No, the trust won't automatically be registered with Charities Services. The charitable trust will need to apply to Charities Services and once the application is successful, the trust will then be registered.

**Q19: Why should I be a registered charity?**

Registered charitable trusts have great standing in the public as a trusted entity. They also have donee status, meaning they are exempt from tax and are able to give tax deductible receipts to people and entities who give donations. Tax deductible receipts.

**Q20: Should my charitable trust be incorporate?**

We recommend charitable trusts incorporate because it offers trustees better liability protection as the charitable trust becomes a separate legal entity. This means the trustees are not personally entering into contracts, bearing the flow on burden and liability.

As a separate legal entity, an incorporated charitable trust can enter contracts and carry the contractual obligations.

**Q21: Does my charitable Trust need an IRD number?**

Yes, you can apply [here](#).