

THE REVIEW OF THE
REGISTER OF CHARITIES

Charitable Status and Sport

April 2003



The Charity Commission

The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public confidence and trust. Most charities must register with the Commission, although some special types of charity do not have to register. There are some 180,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with a gross annual income or expenditure over £10,000 must provide annual information and accounts to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong.

More information about the Commission together with a range of guidance for charities can be found on our website **www.charitycommission.gov.uk**, or by contacting Charity Commission Direct:

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The advancement of amateur sport means the advancement of any sports or games which promote health by involving physical or mental skill or exertion and which are undertaken on an amateur basis. This guidance is being revised to reflect the definition of sport in the Charities Act 2006.

What is this guidance about?

1. This guidance is concerned with the Commission's recent decision to recognise as charitable **the promotion of community participation in healthy recreation by providing facilities for playing particular sports**. (By 'facilities' we mean not just land, buildings and equipment, but also the organising of sporting activity.) The guidance is aimed especially at what are sometimes called community amateur sports clubs (CASCs).
2. The Commission has also recognised as charitable "the advancement of the physical education of young people not undergoing formal education". This is simply an extension of the existing position that the physical education of young people in formal education is charitable. This guidance does not deal specifically with that new charitable purpose.
3. Throughout this guidance we have given examples of particular sports. For example, we have given examples of sports which may have difficulty meeting the 'healthy recreation' criterion, or which may be regarded as dangerous or expensive. In all cases, the examples given are illustrative only. We will reconsider our view of that sport if evidence, from an individual club or the sport's governing body, perhaps, were provided to support a different view. In any case, a club concerned with one of those sports may still be able to register as a charity. A club providing facilities for a sport that does not meet the healthy recreation criterion, for example, may be charitable on the basis that it provides recreational facilities for elderly or disabled people or educates the young.

Background to our decision

4. The law does not regard the promotion of any particular sport, for its own sake, as charitable. However, charities are able to encourage participation in sporting activity as a means to a variety of charitable ends. Examples of charitable purposes involving sport can be found in the Annex to this guidance.
5. As part of our Review of the Register project, we have looked at the relationship between sport and charity in the light of modern social conditions. We have taken account of the enormous public interest in sport as a means of promoting health and the vital role that sport plays in improving the health of the nation. We have concluded that, within the law as it stands, we can properly recognise as charitable bodies that set out to encourage community participation in healthy sports.
6. The effect of this decision is that, for the first time, CASCs that enable members of the public to take part in sports capable of promoting physical health and fitness, and whose facilities are available to all who wish to take advantage of them, can now become charities.

What sort of CASCs can be charitable?

7. In practical terms, a CASC can be a charity provided that two criteria are satisfied:
 - (i) The sport in question must be capable of improving physical health and fitness; and
 - (ii) The club must have an open membership, that is, access to the club's facilities must be genuinely available to anyone who wishes to take advantage of them.

What constitutes 'healthy recreation'?

8. We recognise that recreation that promotes physical health may also bring other, incidental benefits in terms of mental health and well-being and community cohesiveness. However, it is the close and obvious connection between physical exercise and physical health that makes the provision of facilities for healthy recreation charitable. We do not consider that it would be charitable to provide facilities for an activity which doesn't promote physical health but which may contribute, in some cases and in an incidental way, to mental health and well being. Nor does this new purpose extend to the provision of facilities for an activity which doesn't promote physical health but which may result in participants developing particular physical skills.
9. Sports that are capable of providing 'healthy recreation' are those sports which, if practised with reasonable frequency, will tend to make the participant healthier, that is, fitter and less susceptible to disease. Fitness includes elements of stamina, strength and suppleness (there may be others), but it will be enough if a sport contributes to just one of these elements.
10. In general, it will not be necessary to produce medical evidence to show that a sport constitutes healthy recreation. However, there may be cases at the margin where it is not obvious that a sport has a beneficial physical effect and where medical evidence (obtained by the sport's governing body, perhaps) may be relevant. The benefits to physical health from participating in sports such as angling or pool, for example, are not as obvious as the physical benefits of participating in activities such as walking, athletics, football or judo. We will regard a sport as a form of healthy recreation if it can sensibly be said to contribute to the physical health of those who take part in it.
11. The following sports do not at present appear to us to meet our criteria for 'healthy recreation':
 - Angling
 - Ballooning
 - Billiards, Pool and Snooker
 - Crossbow
 - Rifle and Pistol Shooting
 - Flying
 - Gliding
 - Motor Sports
 - Parachuting
12. However, we are prepared to consider any claim from individual CASCs concerned with one or more of these sports, or the sport's governing body, if they believe they can demonstrate clear benefits to a participant's physical health.
13. There are some sports that seem to require a pre-existing level of fitness in participants, such as caving or mountaineering. In principle, there is no reason why these sports should not rank as healthy recreation, even though the physical preparation for undertaking them may contribute as much to health and fitness as actually taking part. However, in general, where a sport does not itself promote physical health, the fact that participants usually undertake some sort of physical preparation will be not be sufficient to make the provision of facilities for the sport charitable.

Open membership

14. Open membership is essential if a club is to meet the requirement of public benefit that applies to all charities. A club that operates restrictions in its membership provisions (other than reasonable restrictions that are necessary to enable the club to operate effectively - see paragraphs 15-17 below) could not claim to be encouraging community participation.

Legitimate restrictions on membership

15. As far as is reasonably practical, a CASC will need to provide facilities for all who wish to play. That said, there are some circumstances in which certain restrictions on membership are reasonable and justified.
16. We accept that the facilities of some clubs are quite limited and that it is not always possible to accommodate everyone who wishes to become a member, on practical or health and safety grounds for example. In those circumstances, it is perfectly reasonable for a club to establish a waiting list for membership where they are oversubscribed, provided that the next available membership is offered to the person at the top of the waiting list (on a first come, first served basis) and not offered to someone lower down the list on the basis that they are a better player.
17. It is also reasonable for the constitution of a CASC to include provisions relating to the refusal or rescinding of membership. This is a standard provision in many charitable constitutions and allows the refusal or rescinding of membership for a good reason. The reason usually has to be properly explained to the individual, and the individual has the right to be heard, accompanied by a friend if necessary, before a final decision is made. Reasons for refusal of membership of a CASC might include, for example, an individual's physical or medical condition, or his or her failure to satisfy the CASC's child protection policy. (We expect all clubs providing facilities for children to have a policy that ensures that people who ought not to be allowed to come into contact with children are not given the opportunity to do so).

What constitutes 'community participation'?

18. For membership to be open, membership subscriptions must be affordable for the majority of the community the club serves. Clubs that are able to offer discounted membership rates for people on low incomes or who are unemployed, for example, will find it easier to demonstrate that they are genuinely concerned with encouraging community participation. However, we realise that not all clubs will be in a position to do this (especially smaller clubs) and we would not expect clubs to offer discounted membership where this clearly would not be financially viable for them. However, those clubs would need to keep this possibility under review in the event that their fortunes improve.
19. There must be no test of skill for admission to the club (although we accept that, once enrolled as members, participants will often be organised into team and competitive structures based on ability - see paragraphs 27 - 28 below). Where resources are insufficient to enable everyone to play, a CASC will be expected to maximise participation and hence it will not be able to focus its resources purely on the basis of ability to the detriment of less proficient members of the club.
20. 'Community participation' relates to 'the community' in its widest sense. Membership of the CASC will need to be available to all members of the public who wish to join. A CASC's constitution may or may not define the geographical area whose residents will be eligible to join. Where a geographical area is defined it must not be too narrowly drawn. It might be defined as the inhabitants of a particular town or village, for example, but a geographical area of just a few named streets is likely to be too restrictive. If the CASC doesn't limit its potential membership to the inhabitants of a particular area, anyone will be able to join, regardless of where they live (subject to any legitimate restrictions as discussed above). A CASC will not be able to give a preference for local people unless its constitution enables it to do so.

Participation by disabled or elderly people

21. Community participation entails that the club's facilities should be genuinely available to the public at large. However, it is not necessary that the sport in question should be one that all sections of the community are able to undertake. In order to be a charity, a CASC will not be required to provide facilities for elderly people or for people with a disability. That said, there should be no bar to participation by elderly people or people with a disability where the sport is suitable and the CASC's facilities can reasonably be used by these groups.

Dangerous sports

22. It may be that some sports, by their very nature, are bound to appeal only to a very limited part of the community. In itself that may not be problematic. However, where a sport is inherently very dangerous, there may well be an issue about whether it is really conducive to physical health.
23. We recognise that there are risks involved in playing any sport but some sports, such as what are known as "extreme" sports for example, involve risks which go far beyond the usual risks of injury associated with energetic physical exercise.
24. If a club concerned with a dangerous sport applies to register as a charity on the basis that it is encouraging the community to participate in healthy recreation, we would need to consider medical evidence of the risks involved in the sport and details of the steps taken to minimise the dangers to personal safety. For example, some people have raised concerns about the risks of brain injury associated with boxing when undertaken at a professional level. Before we could register an amateur boxing club as a charity, we would need to be satisfied that sufficient steps had been taken to reduce those risks to an absolute minimum.
25. Even though some dangerous sports may have difficulty in meeting the healthy recreation criteria, it may be that an organisation uses that sport as a means of achieving a quite different charitable purpose. In that sort of case, the benefit to the public of the organisation's object may outweigh the dangers inherent in the sport.

Affordability

26. Clothing and equipment will also need to be affordable. Some sports plainly require a considerable outlay. There may therefore be difficulties in accepting that some 'expensive' sports, such as polo, motor racing or ocean yachting, for example, are genuinely forms of recreation that are available to the community at large. However, clubs that are concerned with such sports may be able to meet the requirements for community participation if their activities are genuinely geared to maximising participation, perhaps by providing equipment and facilities or by subsidising the cost to participants of modest means.

Competition and team structures

27. The competitive element in sport is an intrinsic and essential part of its appeal to players, whatever their level of skill. CASCs will need, and have, a wide freedom to run competitive teams, and other arrangements, such as leagues and ladders, based on competition and structured according to ability. The most skilled and dedicated players may want to devote more time to training and playing than the less committed, and facilities may be allocated so as to reflect this and to allow competitive teams to play, and prepare for, internal and external fixtures. This is all entirely in keeping with charitable status, provided only that the club's arrangements remain consistent with its charitable purpose of promoting community participation. In other words, the extent to which facilities and resources are devoted to competitive play must not damage the principle of genuinely open membership.

- 28.** In practical terms, this means that a club which devotes a lot of its facilities to competitive matches and to members of its competitive teams, while still offering others appropriate and broadly equivalent opportunities to play, can be charitable. A club would not be charitable if the priority given to competitive teams and players resulted, for members who did not choose to play competitively, in materially worse opportunities to participate. The same would be true if it was similarly clear for other reasons that competitive success, and not community participation, was the true purpose of the club.

Coaching

- 29.** A charitable CASC may or may not provide coaching for participants. If it does so, the coaching needs to be available to players at all levels of skill, not just the best players. It is permissible for the club to give assistance to better players (for example, to enable them to compete in regional, national or international events) where doing so provides an incentive for participation by all, but such assistance must not be given at the expense of other participants. We are not suggesting that a CASC must offer coaching, or that every member must be given coaching. However, where coaching is provided, the CASC must cater for the needs of less experienced players as well as the needs of more competent players.
- 30.** It would be acceptable for a CASC to pay for a member of the club to obtain a relevant coaching qualification if, in return for that investment, that individual is then able to provide coaching at the club. It would also be acceptable for a CASC to pay for the use of a professional coach to coach its best players if those players then passed on what they had learned to the less able players.

Playing and non- playing members

- 31.** To be charitable, a CASC would need to be able to show that it existed for the benefit of the public rather than for the benefit of its members. A CASC will usually adopt a membership structure, but only as a convenient vehicle for making its benefits available to the public. Hence all members would have to be playing members, or non-playing volunteers and helpers (this might include, for example, individuals still wishing to be associated with the club but who are unable to play for reasons of health or old age). We recognise that volunteers can be a very valuable asset for a club. However, all activities of the club would have to be directed towards healthy recreation and ancillary matters. If the club provided refreshment, for example, it could do so only as a purely ancillary activity connected to actual participation in the sport concerned.

'Social' members

- 32.** The provision of facilities for use by members intending only to take advantage of the club's social facilities is not charitable, so the club's constitution could not include a 'social' membership category.
- 33.** This does not mean, though, that a charitable CASC cannot include social facilities, such as a bar, on its premises. It simply means that activities of this nature must be operated by a separate non-charitable organisation, such as a social club, to be run on an arm's length basis from the charity. This is the same basis upon which village halls and community centres, for example, operate social activities on their premises. The arrangements do not have to be onerous, and the income generated by those activities can still be used to support the financial viability of the club. (See paragraph 37, 2nd bullet point, below.)

What would a charitable CASC look like?

34. The guidance set out above means that, overall, in a charitable CASC:
- the sport in question can be shown to promote physical health and fitness;
 - the club is open to anyone who wants to join, regardless of ability;
 - any special clothing or equipment is, where possible, provided free, or at reduced rates, by the club or is affordable;
 - more and less skillful or competitive players are, as far as reasonably practicable, treated even-handedly for access to facilities and other purposes;
 - no payments or private benefits are given to players;
 - no separate and distinct benefits (for example, social facilities) are provided for non-playing members;
 - refreshment and social facilities are provided only where they are ancillary to participation in healthy recreation.

What sort of sports clubs could not be regarded as charitable?

35. Our decision to recognise the promotion of community participation in healthy recreation as a charitable purpose does not mean that all sports bodies can be charitable. Those bodies which have a restricted membership (other than for the reasons set out in paragraphs 15 - 17 above), perhaps for social reasons or because they are concerned with professional or elite sport, for example, or which are not capable of improving physical health and fitness, would not be able to take advantage of our decision.

Will my CASC have to operate differently if we become a charity?

36. Charitable status brings with it considerable advantages in terms of recognition and financial support. Charities have access to the full range of charity tax reliefs, including donor incentives of payroll giving and gifts of shares, wider exemptions on their own income and mandatory business rate relief. They also have access to greater funding opportunities, including grants from other charities, such as community foundations, and public bodies which fund charitable activities. **Charities are able to enjoy those benefits as soon as they establish themselves as a charity.**
37. In return for these benefits, charities have certain responsibilities to operate in a way that is transparent and accountable to the Charity Commission and the public. Those responsibilities are not onerous but it is as well that anyone thinking of registering their CASC as a charity is aware of what those responsibilities are and what changes may have to be made to the way in which their CASC operates. Guidance on the main advantages and limitations of being a charity are set out in paragraph 3 of our publication **CC21: Registering as a Charity** but in particular CASCs may wish to be aware of the following:

- **Property** - All property belonging to the CASC would no longer be privately owned by its members but would become charitable property. As a charity, the CASC would have the opportunity to vest title to that property in the Official Custodian for Charities. Guidance on this can be found in our publication **CC13: The Official Custodian for Charities' Land Holding Service**. Though not compulsory, the advantage of this course is that it saves the club having to vest the legal title of its property in new individuals as trustees when the original trustees cease to be involved with the club. It does not mean that the members lose control over the club's assets, but the change in the status of the club's land would have implications for the club if, for example, once it became a charity, someone (such as a developer perhaps, or a supermarket) wanted to buy the ground. If it was in the interests of the club to sell its existing ground and buy a new one then it could do so, but any surplus funds would have to be ploughed back and applied for the charitable purposes of the club and not shared out among the members. The sale proceeds would be tax free. This issue is quite a technical one and is discussed more fully in **CC13**.
- **Social activities and trading** - As explained above, any social or trading activities undertaken by the CASC (other than those undertaken only in connection with participation in healthy recreation) would not fall within the charitable purpose of promoting community participation in healthy recreation. Activities of this kind (which include running a bar for instance) would have to be carried out by a separate non-charitable body (such as a social club). Whilst this is likely to involve some change in the way the CASC may have operated hitherto, the arrangement does not have to be overly complicated. Essentially what is required is that the non-charitable activities are operated on an arm's length basis from the charity. Quite often, the people running the CASC will be the same as the people running the social activities. It does not matter that these individuals are the same, ie that they will need to 'wear two hats'. What is important is that the two activities (especially the financial and administrative arrangements) are kept separate. The scale of those non-charitable activities will determine whether that necessitates only the setting up of a separate social club, with its own set of accounts and bank account separate from the charity's, or whether the setting up of a separate trading company to undertake those activities would be desirable. Whichever structure is used, the profits from the non-charitable activities can be paid back to the charity under the Gift Aid Scheme, free of tax, to support the charitable activities of the CASC. (For further details see our publications **CC27: Providing Alcohol on Charity Premises** and **CC35: Charities and Trading**).
- **Responsibilities of charity trustees** - Once established as a charity, the people running the CASC (usually some form of management committee) will be the charity trustees. Those individuals will need to be aware of the responsibilities that go with being a charity trustee, for example the rules with regard to non-payment of trustees. We provide a lot of advice and guidance on being a trustee but you may like in particular to have a look at our publications **CC3: Responsibilities of Charity Trustees** and **CC11: Payment of Charity Trustees** and our **Welcome pack for new trustees**.
- **Accounting and monitoring requirements** - We require certain accounting and other information from registered charities every year to ensure that the information we keep about them on our register remains up to date. The amount of information we require depends upon the size of the charity, full guidance on which can be found on our website, but essentially we need:
 - Details of any changes to the charity's registered details when these happen (these can be provided on a Register Check Form that we send to all charities once a year);
 - For charities with an annual income or expenditure over £10,000 a year we will need a completed annual return giving details about the charity's activities (those charities are sent a form to complete) and copies of the charity's accounts and report;
 - Charities with an annual income or expenditure that is less than £10,000 also need to produce an annual report and accounts but these are much simplified and do not have to be sent to the Charity Commission unless we ask for them.

Should our club register as a charity?

38. It is a matter for each individual club to decide whether they would qualify as a charitable CASC and wish to take on the benefits and responsibilities of being a charity. In seeking charitable status, clubs will have made a conscious decision to operate permanently as a charity. The Charity Commission is willing to register any club that clearly meets the criteria for a charitable CASC but it is for each club to decide whether or not registration as a charity is something they wish to pursue.

What do I have to do to register as a charity?

39. If, after reading this guidance, you think that your CASC might be able to claim charitable status, and is interested in seeking registration as a charity, you will need to:

- (i) Telephone **0870 3330123** and ask for a copy of our guidance **CC21: Registering as a Charity** and **CC22: Choosing and Preparing a Governing Document**. These will help you decide if registration as a charity is appropriate. If, having read CC21, you decide that registration is appropriate, complete the coupon at the back of CC21 to order the Registration Application Pack together with any of our other publications you require.
- (ii) Ensure that your CASC has an appropriate form of governing document. (For most CASCs this is likely to be a constitution, which your club may have already, but you will need to ensure that its provisions are appropriate for a charity).

*See **CC22**. The Commission produces model forms of governing document that you can use either to adopt as a new form of constitution or against which you can compare the constitution you have already. The Commission is hoping to work with the sports umbrella bodies to prepare suitable forms of model constitution that CASCs wishing to become charities might be able to adopt. Further information on this will be issued in due course.*

- (iii) Ensure that the objects stated in your club's governing document (whether that is your club's existing constitution or a new constitution that you wish to adopt) are exclusively charitable.

It is unlikely that many CASCs will exist at the moment expressly for "the promotion of community participation in healthy recreation in particular by the provision of facilities for the playing of particular sports" or "to advance the physical education of young people not undergoing formal education". To be charitable, therefore, a CASC wishing to apply for registration as a charity would have to formally amend its stated purpose to the appropriate charitable purpose(s) we have identified and limit itself to it. An example of a suitable form of wording might be "the promotion of community participation in healthy recreation [for the benefit of the inhabitants of x] by the provision of facilities for playing football."

- (iv) Complete the necessary registration forms in accordance with the instructions in the Registration Application Pack and return them to the Registration Division at whichever of our offices has responsibility for the area in which your club is located.

Annex

Other charitable purposes that may be furthered by sport

- A1.** Charities have an important role to play in encouraging participation in sporting activity as a means to various charitable ends. An organisation that is concerned with a sport or sports which does not meet the criteria for a charitable CASC (perhaps, for example, because the sport is not one which can be said to improve a person's physical health) might nonetheless be charitable on the basis that it fulfils a different charitable purpose. For example, it is charitable to give children and adults with a disability the opportunity to ride if the reason for doing so is to enable them to improve their balance, co-ordination, confidence and self-esteem. In that case the purpose is not to promote the sport of horse riding, which would not be charitable, but to promote the charitable purpose of helping people to overcome a disability.
- A2.** In addition to "the promotion of community participation in healthy recreation" the following are examples of other charitable purposes that may be furthered by sporting activities. This is not an exhaustive list but is intended to serve merely as an illustration of the ways in which sport can be used in other charitable contexts.

Provision of public recreational facilities

- A3.** It is charitable to provide the public with sports centres, recreation grounds, playing fields, swimming pools and similar facilities for healthy recreation under the provisions of the Recreational Charities Act 1958. This would include, for example, a multi-sports facility that is concerned with a range of sports, some of which promote physical health and some of which do not. However, it would have to be demonstrated that the facilities are provided in the interests of social welfare with the object of improving the conditions of life of the persons for whom the facility is intended. Further guidance on this can be found in our publication **RR4: The Recreational Charities Act 1958**.
- A4.** Sports facilities may also be provided under the 1958 Act for disabled, elderly or young people.

Relief of disability

- A5.** As mentioned above, sport can be charitable when it is undertaken to improve the conditions of life of people with a mental or physical disability (through sports as diverse as bowls¹, shooting², riding³, hang-gliding⁴ and sailing⁵ and of people with a sensory impairment⁶).

Advancing the education of children and young people

- A6.** It is charitable to provide sports facilities for children and young people who are attending schools or universities, because physical education and development are an integral part of the education of the young. It is also charitable to advance the physical education of young people not undergoing formal education. Sport can also be used in the context of other issues affecting young people including helping to tackle problems such as juvenile delinquency.

Relief of old age

- A7.** Physical training directed towards helping elderly people to cope with encroaching stiffness and immobility would be charitable as relieving old age.

¹ For example, the British Wheelchair Bowls Association (1057204)

² Eg Great Britain Paraplegics Shooting Association (1050338).

³ There are currently 513 registered charities concerned with providing riding for disabled people.

⁴ Eg Flyability (1059197).

⁵ Eg Sailability (1084351).

⁶ Eg Wales Deaf Rugby Football Club (1071383) and the Yeovil Visually Impaired Bowls Club (1068224).

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