**When Charity Ends Part 1**

For many the personal fulfilment of running a small charity has been choked by paperwork. More onerous bookkeeping; annual reviews of performance; new accounting requirements; something called a SORP (a statement of recommending [accounting] practice) to comply with, in fact two of them; new audit requirements; a new regulator and registration fees; the list goes on. Merging with a bigger charity or simply giving up, is an option being explored by some and part one of this article looks at one aspect which is: how to cease an unincorporated charity. Part two will look at how to cease an incorporated charity and Part three will look at accounting for merging of equals or the subsuming of a smaller charity into a larger one.

Charities come in two basic types: incorporated (Company) charities and unincorporated (non-company) charities. Company charities will be one of: a company limited by guarantee, or a company limited by shares or some may be cooperative or friendly societies. Non-company charities come in a multitude of legal forms, including trusts, informal groups, religious organisations, overseas entities with branches in Ireland and even entities formed under Charter. If you are new to the charity, you may be unsure what type of entity your charity is. If the entity is listed at <http://www.cro.ie/search/CompanySearch.aspx> under “Company” then you are a company and the up to date company details can be purchased for €2.50 from [www.cro.ie](http://www.cro.ie). Your charity could also have been set up as a cooperative or friendly society and the list of these can be checked at <https://www.cro.ie/RFS/>. Make sure in both cases to search under a few variations of the charity name as the legal name may not be the same as the commonly used name. If your charity is not listed as a company or friendly society then it is likely to be a non-company charity.

**Winding up a non-company charity**

Non company charities need to look to their foundation document to determine how to cease the charity. Every non-company charity should have a foundation document. The foundation document is often a formal trust document drawn up by a solicitor, but it may be a rule book or it may be a charter or other legal document setting out the rules and regulation of the charity. Normally there will be a section in the formation document setting out the procedure to cease the charity and these procedures need to be followed carefully. Some charities do not have a formation document (or none can be found) and to windup such charities it is recommended to use the standard procedures set out below.

The standard procedure to cease a non-company charity would be the calling of an Extraordinary General Meeting (EGM) proposing that the charity cease operations. Sometimes only a limited number of officers or a set percentage of the membership may call an EGM, it is important to follow the procedure set out in the formation document exactly. A list of fully paid up or registered members should be drawn up, as only they may vote at the EGM. A period of notice for the meeting is usually necessary, 28 days is a standard notice period. At the meeting, the Chairperson will propose a motion to wind up, followed by a vote to pass the motion. Note that the formation document may sometimes require a 75% majority to pass such a motion and sometimes 51% is sufficient. The formation document usually allows the remaining assets, net of any remaining amounts that you owe (liabilities), to be donated to another registered charity with similar aims. If the formation document does not say what to do when the charity is wound up, then the issue of what to do with the remaining assets should be included in the motion wording. The standard Revenue (tax) requirement is that the assets may only be passed to another registered charity and any other form of disposal may have tax implications.

After the motion to cease operations is passed, ACCA would recommend that the Secretary or an officer of the charity be directed to write to all members, suppliers and donors informing them of the decision to cease. If the entity has charitable status with Revenue (i.e. a CHY number) or they are registered with the Charity Regulator, then they need to be formally informed that you have ceased as well.

An example cessation motion would be:

“It is proposed that XYZ Charity cease operation as of today and that the Secretary / Chairperson is authorised to:

1. dispose of all property
2. pay off all remaining debts of the charity
3. To donate all remaining funds and assets to ABC charity / return remaining funds to donors.
4. Write to Donor A and B informing them of the charity ceasing and thank them for their support
5. Inform Revenue / Charity Commission of the cessation of the charity and ask for the removal of the charity from the charitable list
6. Inform the charities bank of the cessation and close all bank accounts.”

Then take a vote, recording formally the votes for and against the motion. Once the motion is passed then the charity has ceased.

Where the formation document does not mention dissolution or no formation document can be found; ACCA recommends that a similar procedure as set out above should still be followed. It is important to carefully document the calling of the meeting and the passing of the motion to cease. Where the charity is not properly wound up, the members of the charity will continue to have a legal liability and only by formally ceasing or formally resigning can this liability cease to accrue.

Where there are outstanding liabilities which cannot be paid off, then it is likely that legally, each and every member of the non-company charity entity will be personally liable for these. In practice, these are generally forgiven by the creditors, but this is not always the case. If there is a large remaining liability on dissolution, each and every member could be “jointly and severally” pursued for the amount. “Jointly and severally” means that if one person can’t pay their share of the deficit, then the others must make up the difference. Where the activities of the charity are being subsumed into a larger charity, it would be important that the larger charity formally take over any overdraft or creditors along with any assets.

**Conclusion**

The best teacher in a school does not make the best principal, they are completely different skills, but the best teacher often gets promoted to principal. In the same way, the most committed and effective charity worker can often end up doing the paperwork and administration, when in fact their skills are best suited to undertaking the charitable cause. If the personal fulfilment from running a small charity has been choked by paperwork; then perhaps it is time to have the paperwork burden removed. You do this by ceasing your personal charity and merging or being subsumed within a bigger charity, and getting back to the charitable work that was the reason you started in the first place.