

## **Advice and Guidance about Charity Status for a Small Camera Club**

### **A journey taken by the Biggleswade & District Camera Club (BDCC)**

By definition, an unincorporated organisation is a group of people with a common cause who join together in a largely informal way to meet. When they were setting up most camera clubs, our forefathers made sure that the clubs were properly set up to make sure everything was done properly. Most camera clubs have been operating as unincorporated organisations since their foundation.

The law that covers unincorporated organisations has changed quite a lot over the years since foundation. The required legal structures for organisations have gradually evolved to include smaller organisations within the scope of required structures. Following a number of scandals, charity law has been modified to include a way for small unincorporated organisations to operate in a much more structured manner without the need for costly legal advice. There is a major break point to do with size that determines whether the club has to register with the Charity Commission. Clubs that have an annual gross income of less than £5,000 can be defined as charities and can benefit from the status of being a formal charity by registering with HMRC. It is important to emphasise that the small club process does not require the club to appoint trustees as a conventional Management Committee is accepted as a valid and acceptable form of management. There is a need to identify three accepted responsible individuals to be identified to HMRC for legal contact purposes.

BDCC went through the whole small organisation process during the Covid lockdown. There was very little advice and guidance specifically for camera clubs as to whether and how a typical small camera club could benefit from the very significant funds and discounts that charitable status brings. This article attempts to demystify the processes. Throughout the process the HMRC were extremely helpful and often gave specific advice and even example wording in some cases to help complete this process.

The latest developments to allow unincorporated organisations to take a full part in the charitable activities of the country have widened the definition of what constitutes a charitable unincorporated organisation in a way that allows these organisations to benefit from charitable status so that they can take advantage of the benefits of a charitable organisation. The all encompassing definition of a charitable organisation is now defined under the law of England and Wales, such that the legal conditions that must be met, in order to be a charitable organisation, are:

the organisation has exclusively charitable purposes (these fall within the 'descriptions' of potentially charitable purposes set out in the Charities Act 2011); and

that the organisation's specific purposes are 'for the public benefit'

The specific forms and advice for the application to be done on-line are all available on the government web site shown at the end of this article along with several helpful web sites. The constitution and rules of BDCC that were used to complete the on-line forms are on the club web site.

Once registered with HMRC, the club became eligible for Gift Aid refunds and can use the small charity status to obtain discounts for some services such as hall hiring and local council support. Larger clubs that are required to register with the Charities Commission can also benefit from this assistance but the procedures, whilst very similar to the small charity route are inherently more onerous and are beyond the advice being offered in this article. Small clubs do not have to submit audited annual financial reports and only require a simple spreadsheet showing income and expenditure for each year.

When the BDCC went through this process in 2021/2 we discovered that the rules of the club were broadly OK, but they required a little tweaking before they could meet the HMRC requirements. Probably the most significant, apart from some naming and order of rules in the constitution and rules was to do with the measures defined to deal with fund distribution in the event that the club closed down. The HMRC rules insist that the closure process makes sure that these funds must be passed to either another charity that is in the local area or are involved in similar activities. In reality, this can include things like photographic projects in local schools or youth organisations. HMRC were very helpful in providing the specific form of words for this as follows:

*In the event of dissolution a Special General Meeting shall be called at which a liquidator shall be appointed to dispose all assets of the club either: Directly for objects; or by transfer to any charity or charities for*

*purposes similar to the objects; or to any charity or charities for use for particular purposes that fall within the objects.*

In addition, there are some other key words and definitions that are mandated to whether an organisation can be classed as a charity. For instance the club must be accessible to the whole community and the definition of the words “public benefit” is quite complex and open to lots of confusion. The important issue is to do with how the law defines “public benefit”. There are a number of areas under the definitions of “public” that could indicate that a membership funded organisation cannot be regarded as open to the public. However, taking a step back, the membership of most camera clubs is open to anyone in the general public without favour, sex or ethnicity so in law those clubs are classed as open to the public and so meet the Public Benefit test.

Another issue is whether the things camera clubs do are charitable. The definition of actions are very nuanced and need a degree of clarification for them to be acceptable to form the basis of a charitable organisation. Whilst provision of formal education is not considered charitable, if improvement in skills and knowledge carried out by an organisation is in line with the organisation’s purposes, as it most definitely is in the case of most camera clubs, then presentations, lectures, competitions etc that improve member’s abilities to carry out those purposes that is regarded in law as charitable. There is also a lot of difficulty when looking at the use of the words “personal benefit” when we view our activities. However, the law separates anything that is one-to-one tuition from attendance at group improvement. This means that most camera clubs are covered because that is how they operate.

The most significant part of the process is the definition of what constitutes “donations” that are acceptable to HMRC for qualification to receive Gift Aid. The list of what is and is not acceptable to HMRC is quite complex, but the most important one for camera clubs is that all membership subscriptions are eligible to be considered as valid for this qualification. Therefore, every member who pays tax on income, pension or savings can agree to HMRC gifting another 25% of their membership subscription to the camera club. Every qualifying member provides a tax refund direct to the club bank account of another 25% of their subscription every year they qualify. For example, a club with 32 qualifying members paying what is a rough average across most camera clubs of £50 a year for membership subscriptions will get a GIFT from HMRC of £400 each year. HMRC provide a proforma example of the form that members must complete. The spreadsheet that is used for application for the Gift Aid refund from HMRC is also made freely available in a standard form that only needs someone to fill in details from that form each year and the money is then put direct into the club bank account in around 4-6 weeks time.

## **Planning for Gift Aid**

A number of sequential steps would need to be made in order to complete the Gift Aid refund process. Each of these steps can be halted where things stand and resumed later. The process is important but the timing is only important in the context of the benefits gained. The planning steps are broadly as follows:

Step 1 – Add Gift Aid form to the back of the club membership application form.

Situation – At completion of this stage we had a good idea of the extent of the possible income from Gift Aid if we progressed. At this point nothing had changed.

Step 2 – Agree the documentation for the application to be recognised by HMRC.

Situation - Again on completion of this stage, nothing had changed any further. – The Preseason Committee Meeting discussed this stage.

Step 3 – Apply for recognition by HMRC of the camera club as an unincorporated charitable organisation with a gross income less than £5000.

Situation – This stage can be initiated at any future time and was a simple on-line process. There was some iteration of the process because specific wording had to be updated in the club rules that required an AGM to achieve. This was lengthy because of very significant delays (up to 6 months in some cases) for HMRC to reply.

Step 4 – HMRC recognises that the camera club is an unincorporated charitable organisation.

Situation – When completed, the camera club was given an HMRC number to identify itself as having charitable status. This number must not be published on either club literature nor web sites. The club still had not fundamentally changed any of its processes or procedures. The existence of the HMRC number can be used to confirm to the official club address and that the camera club is fully entitled to the charitable organisation refunds or discount – final completion by HMRC took around 6 weeks. Upon completion nothing had changed other than that camera club has a symbol of acceptance of status as a charitable organisation.

#### Step 5 – Compile the HMRC Gift Aid data for application.

Situation – There is a retrospective four-year timescale for completion and the only issue would be the timing of the four previous years if not done straight away after acceptance. The initial Gift Aid claim must be dated after the acceptance of the Club charitable status by HMRC so, for example, if that acceptance happens before the start of the winter season in September 2022, the first Gift Aid claim could be made any time beyond then but the data in that first claim must only relate to subscriptions made for the September 2022-23 season and then can continue from that point. If in the same HMRC acceptance case, the Gift Aid claim is not actually submitted until March 2027 the club would be entitled to Gift Aid from all of the four seasons between 2022/3 and 2026/7 because it can claim for all of the four years from beyond the HMRC acceptance.

In future seasons, the camera club would be able to submit annual requests for Gift Aid refunds by submitting a spreadsheet with the details of the members who have approved payment of their subscriptions to attract Gift Aid. The only qualification being that they have paid more tax that year than they have claimed for Gift Aid since that refund is of tax they have paid to HMRC being refunded to the camera club in repayment for their charitable activities to the public in accordance with their charitable purposes.

Note: Some other activities may also qualify to be added to the Gift Aid total, but they will probably be insignificant. Unfortunately a weekly raffle would not qualify because it is not considered charitable as the prizes are considered to be personal gain.

#### **Useful web sites:**

[https://www.charityexcellence.co.uk/Home/BlogDetail?Link=Register\\_A\\_Charity\\_With\\_HMRC\\_To\\_Claim\\_Charitable\\_Status](https://www.charityexcellence.co.uk/Home/BlogDetail?Link=Register_A_Charity_With_HMRC_To_Claim_Charitable_Status)

<http://smallcharityfinance.org.uk/giftaid/>

<https://www.hazlewoods.co.uk/uploads/Charities-Gift-Aid---Factsheet.pdf>

<https://www.gov.uk/charity-recognition-hmrc>

<http://81.144.160.101/charities/gift-aid-toolkit.htm>

[http://81.144.160.101/charities/gift\\_aid/rules/memb-subscript.htm](http://81.144.160.101/charities/gift_aid/rules/memb-subscript.htm)

[https://culturalgovernancealliance.org/resources/files/How\\_to\\_Run\\_a\\_Charity\\_extract\\_ISCA.pdf](https://culturalgovernancealliance.org/resources/files/How_to_Run_a_Charity_extract_ISCA.pdf)

<https://www.gov.uk/claim-gift-aid/how-to-claim>