5 September, International Day of Charity

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Today is the UN International Day of Charity, a day to remember the life of Mother Theresa, who devoted her life to the poor and the dying of Calcutta - a living example of compassion and the importance of charity in improving the human condition. 26 years after her death, we see that living by these values, supporting charity with our time, energy and money, is as important to the giver as the receiver. These actions give our lives meaning and purpose.

Navigating Legal Frameworks for Charitable Endeavours

The regulatory framework in England and Wales recognises the vital role of the voluntary sector, not least in supplementing public services such as housing, care, education and health. The tax regime provides inheritance tax relief on legacies to charities and a reduced overall rate of tax where 10% or more of a deceased's net estate goes to charity. For those looking to create a charity or social enterprise, a number of legal structures are available.

In 2005, the Community Interest Company (CIC) was introduced - a company with special features for non-profits. It offers limited liability under the familiar company framework without special tax treatment. The 'community benefit' requirement is less onerous than the 'public benefit test' for charities; CIC directors can receive reasonable remuneration, whereas the role of charity trustee remains, by and large, voluntary. CICs can also be used as a charity trading vehicle.

The Charities Act 2006 came up with another innovation: the Charitable Incorporated Organisation (CIO). This has proved a very successful option for charity trustees seeking protection against operational risk without the administrative overlay of company law. You register CIOs with the Charity Commission to create them, and they become eligible for charitable tax relief.

The Impact of the Charities Act 2022

The Charities Act 2022 will, by the end of this year, bring in greater alignment and simplicity in updating governing documents for different types of charities. Trustees will also have more freedom to make the best use of restricted funds and assets without involving the Charity Commission. This will not remove the need for

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legal advice but should make it more cost-effective.

In the area of charity governance, the repercussions of the 2015 collapse of Kids Company are ongoing. Last year, the Charity Commission's inquiry report revealed the charity's trustees mismanaged it by adopting a high-risk business model and failing to give enough priority to refreshing the Board. This report is likely to be challenged in the courts. The case highlights the role of effective governance in delivering charitable outcomes. The Charity Governance Code, first published in 2017, is available to charity trustees as a best practice 'manual' for meeting their legal duties. At another level, it sets the tone for everyone working in a social purpose body.

How does all this relate to the International Day of Charity? Well, September 2023 is a good time for us all to reflect on the importance of charity in our lives. Our legal and regulatory system provides the ingredients for supporting and running charities effectively. Now has never been a better time for getting the foundations right.

Need advice?

or further details about charities on the International Day of Charity, please reach out to Lisa Watson-Cook, Partner & Head of Charities & Not for Profit at Lester Aldridge. You can contact her via email at Lisa.Watson-Cook@LA-law.com or by phone at 023 8082 7444.

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