

INTRODUCTION

This guidance is for any registered charity or non-profit organisation (NPO) that is considering deregistration. It includes details of what the Registrar will require and recommended matters for consideration. This guidance is not legal advice. All charities/NPOs should seek legal advice regarding contractual and governing document restrictions and requirements.

WHICH CHARITIES/NPOS CAN BE REMOVED?

A compulsory registered charity can only be removed from the Register when it has closed in accordance with its governance (all activities have ceased, and assets have been disposed of) or with evidence of successful transfer to another jurisdiction.

➤ Voluntary

Registered charities/NPOs that have a voluntary entity type are either, domestically focused and privately funded, or domestically focused and under the thresholds. The Registrar may require documentary evidence of the charity/NPO's entitlement to voluntary removal.

➤ Closed

Charities/NPOs who have ceased activities need to close in accordance with their governing rules and undertake all legal requirements, consult all relevant authorities, properly account for the disposal of assets, close bank accounts and publicise their closure to stakeholders. The Registrar will require evidence of closure i.e. closing financial statements.

➤ Transferred

A charity/NPO that has resolved to transfer its registration to another jurisdiction should seek legal advice/assistance and obtain registration acceptance in the new jurisdiction before being removed from the Charities Register of Guernsey and Alderney. The Registrar may require evidence of registration in the new jurisdiction.

VOLUNTARY REMOVAL CONSIDERATIONS

We recommend that the managing officials of voluntary registered charities/NPOs consider the following matters (some of which may not apply) and ensure they obtained and record all the information they require to support their decision regarding whether or not to remain on the Charities Register:

- (a) There are **reputational benefits** to charity/NPO status which promotes community support and trust.
- (b) Registered charity (for public benefit) **income is tax free** and only some forms of NPO's (member benefit) income are taxable. Before deregistering, we recommend you contact Revenue Services (Tel: 01481 225700) to confirm the effect of deregistration.
- (c) **Banks** and **insurance** companies should be consulted as their services may be conditional on the Charities Register registration.

- (d) Only registered charities are able to claim **tax credits** on qualifying donations from Guernsey taxpayers <https://www.gov.gg/article/151830/Income-tax-relief>
- (e) If the charity/NPO is or every intends to become an LBG, without charity registration the LBG will need to register as a category 6 company and pay the full annual validation fee. Charities/NPOs are category 4 LBGs and there is a **reduce annual validation fee**. Note: registration on the Company Register enables a charity/NPO to limit its liability exposure (for example due to having employees or owning buildings with public access) and should always be based on a risk assessment.
- (f) **Data Protection** do not charge registered charities/NPOs and without registration entities are required to pay the full fee.
- (g) Without Charity Registration entities are no longer entitled to **discounts and free services** from providers like Microsoft.
- (h) The Charities Register provides **legitimisation** and public listing to entities that are not on any other register.
- (i) Stakeholders and public **perception** may be adversely affected by removal.
- (j) Voluntary removal from the Charities Register is **irreversible** and the registration cannot be reinstated. Should the charity/NPO wish to re-join the Charities Register it will be required to make a new registration application via the Charities Portal.
- (k) The **Charities Register number must be removed** from all marketing material, webpages, correspondence and social media, notify identifiable present and past donors, and issue a notification to all stakeholders.
- (l) The managing officials must refer to the governing documents to ensure that the removal is **constitutionally endorsed**.
- (m) All registered charities/NPOs have Regulations effecting how they operate which depend on their entity type. These Regulations help to promote and protect the entities objectives and purposes. Entities benefit from these Regulations through increased awareness and guidance. The Charities law raises the profile of our community's charities and NPOs. Charities/NPOs should not seek to be removed in order to avoid **administration** and forfeit the benefits of registration.

CLOSING CHARITIES/NPOS

Compulsory registered charities/NPOs are required to provide a copy of the final (closing) financial statements and a copy of the minutes at which the managing officials resolved how to close the charity. The charity is not able to be removed until it has a zero-balance sheet and should have notified the bank prior to removal from the Register.

If the charity/NPO is an LBG (a limited by guarantee company on the Companies Register), has been dormant for three months or longer, and meets the conditions of the strike off declaration, it can apply for voluntary strike-off. It takes 24 hours to register the application and strike-offs are published for two months before being dissolved. Please see the guidance and links online <https://www.guernseyregistry.com/article/155041/Voluntary-Strike-Off--Voluntary-Winding-Up>

REMOVAL SUBMISSION

The Registry do not accept paper documents or carry out updates based on email instructions. All updates, filings and submissions need to be made by an appointed authorised filer via their personal Charities Portal account.

Please see portal submission guidance on the Guernsey Registry website

<http://www.guernseyregistry.com/CHttpHandler.ashx?id=163066&p=0>

Authorised filers receive an automated email confirming submission and this does not remove the charity/NPO from the Charities Register. The Registry will process the submission and are likely to request additional information and verification that all matters have been taking into account. Once approved by the Registrar the authorised filer will receive an automated email confirming registration of the submission.

The charity/NPO will no longer be listed on the Public Register and all removals will be listed on the Guernsey Registry website.

Removals are irreversible and any charity/NPO wishing to be reinstated will need to start a new Registration. Charity/NPO registration numbers cannot be reused.

ONCE REMOVED

The authorised filer will receive an email confirming the removal submission has been registered by us. At this point the charity/NPO is legally required to:

- Keep the last six years' worth of records (e.g. accounts, managing official details, contracts etc) secure and recoverable. Documents can only be securely and carefully disposed of once they are over six-year-old. Details of how the charity/NPO will monitor and achieve this, and who will be responsible for retaining the records securely, should be minuted and everyone effected should be notified. This record keeping applies to voluntary removals, closing and transferring charities/NPOs.
- The Charities Registration reference must be removed from all public domains e.g. promotional material, webpages, correspondence and social media. This is a legal requirement in order to protect the public and ensure that the charity/NPO is operating in an honest and transparent manner.
- A notification is sent to identifiable past and present donors and other stakeholders. Is best practice for the final accounts to be made available to donors.