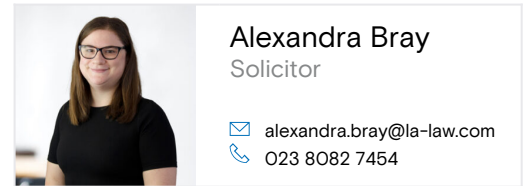




AUTHOR / KEY CONTACT

Charity Partnerships – Things to Know



Supporting a charity can be a beneficial and enriching exercise for any business: it affords the corporate sponsor the opportunity to “give back” and “make a difference”, improving staff morale at the same time. If done successfully, this could be an important part of your ESG offering and enhance your brand.

Choice of charity

Finding the right fit is incredibly important on both sides. The choice of charity will often lie within your business and the causes that have special relevance for you. However it is important that your due diligence extends beyond what is immediately available in marketing materials. It is helpful to check that the charity is registered with both the Charity Commission (although not all charities need to register) and with HMRC for gift aid purposes - this will allow the company to [claim tax relief](#) against donations.

The [Charity Commission Register](#) will tell you if a registered charity has consistently submitted its annual returns on time. It is advisable to review the latest annual reports and accounts. These documents should provide important financial and governance information and describe in detail how the charity delivers its purposes for the public benefit. You could also ask for relevant policies, such as safeguarding. This can help provide comfort that the charity is well-run, and that any potential future issues would be dealt with effectively.

The Register of Charities will also tell you about the [charity's structure](#) - is it a trust, charitable company or a CIO (charitable incorporated organisation)? It is important to note that an unincorporated charity is not a legal entity with limited liability, so any form of agreement would have to be with its trustees.

Fundraising agreements

There are specific rules relating to businesses who market goods/services on the basis that a charity will receive funding e.g. ‘10p on every purchase goes to X charity’. If a business defined as a ‘commercial participator’ makes such a claim as part of a promotion, they must have a written agreement with the charity. The company must also make a ‘solicitation statement’ explaining how the fundraising will benefit the charity.

These rules and other areas of fundraising regulation are outlined in the [Code of Fundraising Practice](#) overseen

by the Fundraising Regulator. Although not a statutory body, it is good practice for all charities who fundraise in England, Wales and Northern Ireland to register with it.

Sponsorships such as 'charity of the year' arrangements should also be underpinned by a written agreement and it is important that any payments relating to advertising and use of the charity's brand are correctly treated for tax and VAT purposes. There are strict rules for charities carrying on a trade that does not fall within their primary purpose – see [Charity Commission guidance CC35](#). For the business, sponsorship payments are different from donations but can be deducted from business profits as pre-tax expenses.

Establishing a charity or foundation

Charity partnerships become more complex where connected persons are involved. Should your business wish to set up a charity, it is likely that company employees and/or directors will sit on the charity's board of trustees.

The trustees are the people with the general control and management of the administration of a charity, a responsibility that comes with a wide set of [legal duties](#). All trustee decisions must be made solely in the interests of their charity, with a view to effectively delivering its purposes. As such, charity trustees cannot personally gain from their position and must manage any conflicts of interests that arise. Unless there is a sufficient number of independent trustees, there may be an unmanageable conflict of interest for the charity when dealing with the business.

The Charity Commission's [Guidance for charities with a connection to a non-charity](#) highlights the importance of the charity being able to operate 'at arms' length' from the business. It is a good idea to have a written agreement between the two, setting out the relationship more clearly and ensuring that charitable resources cannot be used to subsidise the business in any way. This will also help trustees to demonstrate their independence, and that decisions are always taken in the charity's best interests

This article is for guidance only and not to be relied upon as legal advice in relation to specific circumstances.

For more information, please contact the authors [Lisa Watson-Cook](#) or [Alexandra Bray](#), Charities & Not for Profit, Lester Aldridge at online.enquiries@LA-law.com or 01202 786161.