

What are the advantages of becoming incorporated?

If the trustees apply to incorporate as a board, they need not be concerned about retirements and appointments over time, as the board will hold the trust property in its name and the trustees – now members of the board – will decide how the board should administer it to benefit the charitable purpose.

The board, not the trustees, will enter into all obligations, and it, not the trustees, will be sued if some default occurs. The trustees will continue to act to the high standards that the law requires whether or not they decide to incorporate as a board.

The procedure for incorporating is set out below, after a note on another category of applicants who can become a board.

What if a charitable trust is not incorporated?

It is not compulsory to incorporate as a board. The trustees of a charitable trust can continue to hold the trust property in their joint names for the benefit of the charitable purpose. Part I of the Charitable Trusts Act 1957 helps them by treating the trust property as vesting automatically in 'the trustees for the time being', as inevitably trustees will come and go over time. This is unlike private trusts, where the vesting of the trust property has to be properly documented each time someone retires or is appointed.