

From: compliance@libdems.org.uk

Date: Wed, 23 Feb 2022 at 17:45

Subject: Day 23 - Unincorporated Associations & Trusts



Day 23's email is about Unincorporated Associations & Trusts. I would like to thank David Allworthy for writing this email.

Unincorporated Associations & Trusts



Unincorporated Associations

Like most clubs and societies that people belong to in a voluntary capacity, the Party is an unincorporated association. This is not unusual but the main points to know are:

- An unincorporated association is not a legal entity.
- It is an organisation of two or more persons, who are the members of the association.
- The membership may change from time to time.
- Members agree, usually in a written constitution, to co-operate in furthering a common cause.
- The affairs of an unincorporated association are usually managed by a committee chosen by its members. This means that the office holders act as agents for all the members.
- An unincorporated association does not have limited liability.



The Electoral Commission

Political Parties are however, different to most other unincorporated associations, in that they are subject to specific legislation under *The Political Parties Elections and Referendums Act 2000 (PPERA)* and subsequent associated legislation. Therefore, they must be registered with the Electoral Commission as their regulator.

Trusts

The main issue with being an unincorporated association is that the Party cannot own property under its own name; instead, any property must be held by individuals on behalf of the association as a trust. If your local party has a trust it is likely to be one of two types:

1. a **Beneficial Trust** with a succession of interests (e.g. income to Fred for life, then capital to his children). Such trusts can be at risk of being 'void for perpetuity' and will almost certainly need legal advice to resolve.
2. a **Bare Trust** where trustees hold an asset, on behalf of an unincorporated organisation which (unlike a company) cannot hold land in its own name. Here the Local Party should be the constant beneficiary.

In order to determine the difference between the two kinds of trusts, there should be documentation that will sometimes (in archaic wording) tell you whether it is a Bare or a Beneficial Trust.



Common issues to look out for with trusts that may cause problems:

- Make sure you know where the documentation that governs the trust is stored
- Review who your trustees are on a regular basis and that anyone who is no longer a member is replaced as soon as possible as this could cause complications
- You may need to take advice on whether your trust is affected by *The Perpetuities and Accumulations Act (1964)*

As each trust is different, we are unable to give detailed advice in an email. If you have any queries about a trust, if you can, please supply us with a copy of your trust deed and we will obtain bespoke advice for you from experts in this field.



As always, don't hesitate to contact us by emailing compliance@libdems.org.uk with any questions or to join one of our monthly **Compliance Clinics** (next one: 21st Mar, 6pm).

Alternatively, if you have a complex query you'd like to discuss on a one-to-one basis, we offer 15-minute appointments on a Monday afternoon, 3-4pm on: 7th Mar and 4th Apr.



Kerry Buist (she/her)
Head of Compliance,
Liberal Democrats