

When does a newly-registered charity have to file its first set of accounts? Professor Gareth Morgan, Kubernesis

There are a number of different issues to consider including the legal form of the charity the jurisdiction where it is registered and whether or not the trustees decide to use a non-standard financial year (as common with newly-formed charities).

Preliminary issues

This article is only concerned with registered charities – though it considers all three UK jurisdictions, including charities registered with CCEW, OSCR or CCNI (but it does not deal with charities in England and Wales that are excepted or exempt from registration, or charities in Northern Ireland that are not yet registered with CCNI).

In the case of **Northern Ireland**, the article ignores the current legal uncertainty about the registration status, and the comments below assume that all charities registered with CCNI are properly registered under the Charities Act (Northern Ireland) 2008.

The article also focuses on the statutory filing deadlines and ignores informal extensions agreed by charity regulators in the light of the Covid crisis. (In general, a charity's accounts will be shown as 'overdue' on the CCEW, OSCR or CCNI online register if the statutory deadline is missed, regardless of whether or not a regulator has granted an informal extension. It is also worth bearing in mind that a charity that can only provide very old accounts could lose out with funding applications. So it is worth aiming for the statutory deadlines if possible.)

The focus is on deadlines for filing accounts with the charity regulators; however, there is a separate note at the end regarding charitable companies whose accounts must also be filed at Companies House.

Also in the case of dual-registered charities (those registered with both CCEW and with OSCR) accounts must be filed with both regulators, but it make sense to focus on the Scottish deadline as that comes earlier.

In all cases, the filing must comprise: the trustees' annual report, the accounts themselves, and the report of the auditor or independent examiner where applicable, and all of these need to be approved by those responsible. All three regulators are currently accepting typed signatures, but the documents must show the date when they were approved and the name(s) of those who signed.

CIOs and SCIOs

It is simplest to answer the question in relation to charities that only come into existence at the point of registration.

This is the position in relation to charitable incorporated organisations (CIOs and SCIOs) where the date of charity registration is also the date of incorporation (except in the case of a CIC or company converting directly to a CIO or SCIO: these are considered later). Excluding the conversion situation, if there was a previous organisation of some kind doing similar work it was a separate entity: the CIO or SCIO only exists from the date of charity registration.

CIOs are not yet possible in Northern Ireland, but the accounting regulations both for England and Wales and for Scotland state that first set of accounts for a CIO or SCIO start on the day it was formed (registered). This is important – so, for example, if a CIO was formed on 10 December 2020 but does not actually receive any income until 1 April 2021, its first set of accounts must nevertheless start from 10 December 2020.

However, the rules allow trustees to choose a financial period that is anything from 6 months to 18 months long and this is very helpful for a newly registered charity to choose a sensible year end (though having chosen a year end, the same date should be followed for a number of years – the regulations do not allow charities to keep changing their year ends).

Example 1: For a CIO or SCIO registered on 10 Dec 2020, the first accounting period could run as long as 18 months – i.e. it could run from 10 Dec 2020 to 9 June 2022. (However, the trustees would need to update the charity's entry with CCEW or OSCR in good time to show that they were working to that year end.)

The trustees then have up to 9 months after year end with OSCR or 10 months with CCEW until the statutory deadline for filing the accounts. So the latest possible filing dates for the first set of accounts in this example would be 9 March 2023 for a SCIO and 9 April 2023 for a CIO.

So – there can be a very big delay between the formation of charity and the last possible date for its first accounts to be filed!

Bear in mind that in the case of CIOs in England and Wales there is no £25K limit for filing accounts: every CIO must file its accounts within these deadlines, no matter how small its income. A number of trustees of newly-registered CIOs are overlooking this – especially if the CIO's work has taken much longer than expected to get started – with the result that the CIO is shown in default before it has filed any accounts at all!

Charities that existed prior to registration

For charities other than CIOs and SCIOs the date of formation of the organisation will always be prior to the date of charity registration. This applies to companies, trusts, associations and other forms of charity.

In general the regulations require that the first set of charity accounts start from the date the organisation was formed, or – if it has been in existence for some time – they start from the day after its last accounting period (as a non-charity).

Example 2: A company was incorporated on 1 August 2020 and registered as a charity on 10 December 2020. The trustees/directors opt for an 18 month initial accounting period covering 1 Aug 2020 – 31 Jan 2022. The first accounts must be filed at Companies House not later than 30 April 2022 i.e. 21 months after incorporation (but, as noted above, the latest possible filing date with the charity regulators would be 31 Oct 2022 with OSCR, or 30 Nov 2022 with CCEW or CCNI).

Note that it must prepare charity accounts for the whole of that period – not just for the period after it was registered as a charity (and, as a company, they must comply with SORP).

It then has 9 months to file those accounts if registered with OSCR or 10 months if registered with CCEW or CCNI – so the latest possible filing date with the charity regulators would be 31 Oct 2022 with OSCR, or 30 Nov 2022 with CCEW or CCNI.

(However, the first accounts must be filed a good deal sooner than that with Companies House – see below.)

Example 3: A small charitable trust in England was formed in 2012 and prepares accounts each year to 31 July but it was only in the year ending 31 July 2020 that its income went over £5,000. The trustees then applied to CCEW and the trust was registered as a charity on 10 December 2020.

As the trust has been preparing accounts to 31 July each year there is no need to change this when it became a registered charity. So its first set of accounts as a registered charity will cover the year 1 August 2020 to 31 July 2021 and they must be filed with CCEW within 10 months of year end, i.e. by 31 May 2022. (The same deadline would also apply for a charitable trust registered on that date with CCNI.)

Example 4: The same issue could arise in Scotland regarding a trust established some years ago if it was originally formed with aims that were not explicitly charitable, but it amended its objects in spring 2020 to become a charity. The trustees then applied to register with OSCR, achieving charity registration on 10 Dec 2020. Its first set of charity accounts will cover the year 1 August 2020 to 31 July 2021 and need to be filed with OSCR by 30 April 2022.

Note: There can be a complication in Scotland with a pre-existing organisation whose first year end after charity registration is less than 6 months after becoming registered with OSCR. OSCR does not normally accept accounts for a charity that has been registered less than 6 months (i.e. less than the shortest accounting period allowed) even though this is quite common for an organisation that existed previously. So, in practice, a Scottish charity affected by this may have to complete perhaps 5 months as a charity and produce a set of accounts that are not filed with OSCR, and then start its first full year as a registered charity.

CICs and Companies Converting to CIOs and SCIOs

If a charitable company or CIC converts directly to become a CIO or SCIO, the accounting years continue as normal, but, from the date of conversion, the accounts are only filed with the charity regulator, not with Companies House. (Note: Direct CIC to CIO conversions only apply in England and Wales, but a company which is already a charity can convert directly to a CIO or SCIO as applicable.)

In the case of a charitable company converting to a CIO or SCIO it will almost always be a registered charity prior to conversion and so the filing dates continue as normal.

In the case of a CIC to CIO conversion, there must be no CIC accounts outstanding at the date of conversion. The first set of charity accounts filed with CCEW will start from the day after the last set of CIC accounts filed at Companies House (even if, as usual, the CIC to CIO conversion took place late in the financial year) and must be filed with CCEW within 10 months of the first year end that arises after the conversion.

Example 5: A CIC was incorporated in 2012 and prepares accounts to 31 July each year. Its accounts and CIC report for the year ending 31 July 2020 were filed at Companies House in good time in October 2020. It applies to convert to a CIO and the conversion is registered on 10 December 2020. Its first set of charity (CIO).

accounts will cover the year 1 August 2020 to 31 July 2021 and must be filed with CCEW by 31 May 2022. (Note: Such accounts can be a challenge for IEs, as they could quite legitimately include non-charitable expenditure by the CIC for the months prior to the date of conversion.)

Charitable companies – filing at Companies House

Ignoring the special provisions currently applicable due to Coronavirus, a private company must normally file accounts at Companies House not later than 9 months after the end of its first accounting period (i.e. a month earlier than the normal deadline for filing charity accounts with CCEW or CCNI, but the same as the OSCR deadline).

However, there is an overriding rule that even if the first financial year is extended, the first set of company accounts must be filed not later than 21 months after the company is formed. So, if a company extends its first accounting period to 18 months, it only has 3 months after the end of that period to file its first accounts at Companies House. This is much earlier than the deadline for filing with charity regulators, and is easily overlooked.