



Incorporated under the Co-operative and Community Benefit Societies Act 2014 as a Community Benefit Society (number 7681)

Trust Registration Service (“TRS”) – A Briefing Note for Unincorporated Sports Clubs

- **Is your bowls club unincorporated?**
- **Do any of your members act as trustees?**
- **Do these trustees hold property or assets on behalf of the club?**

If you do not register a trust (or keep the trust details up to date) when required to do so, the trustees may be liable for fines.

Following a change in the law in September 2020, all express trusts, subject to a limited number of exemptions, are now required to register with [HMRC Trust Registration Service \(TRS\)](#). This is the case irrespective of whether the trust has a tax liability.

This guidance note has been prepared to provide an introduction to what is a complex and nuanced area and is not intended to constitute legal advice. If you are unsure as to the implications for your particular club or your obligations under the law, we would recommend visiting some of the sources of information provided at the bottom of this document or seeking specialist professional advice.

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Background

Under the [Anti-Money Laundering Regulations 2020](#) (which apply throughout the UK) express trusts are required to register with the Trust Registration Service (TRS), even if they are inactive¹. The deadline for registrations for non-taxable trusts which are not exempt and were in existence on 6th October 2020 (which will include most asset owning unincorporated clubs) is 1st September 2022. Other newly created trusts will have until then or 90 days after creation if later to register.

Impact on unincorporated bowls clubs:

Unincorporated associations such as some bowls clubs have no separate legal capacity so their property/assets e.g. freehold or leasehold land/equipment/bank account(s) must be held by individuals or by a legal entity on their behalf. Often within bowls clubs, property is held by club members willing to act as trustees. This is usually evidenced by a formal trust document. The question arises as to whether these bare trusts are required to register with TRS following the 2020 Regulations.

What is a Trust?

A Trust is an arrangement where money or properties is held by one party for the benefit of another party or for a charitable purpose. Many bowls clubs, particularly those which are run as unincorporated associations, operate under these arrangements, where the assets are held in the name of a few trustees but can be used by, and are for the benefit of, all members of the club. This is because an unincorporated club or association has no separate legal entity. Community clubs and associations are often structured as unincorporated associations, meaning that the association itself has no legal capacity.

What is an 'Express Trust'?:

An express trust is any trust that is set up deliberately, in contrast to other types of trusts which may be set up automatically by operation of law. An unincorporated club where the trustees hold the club's assets on trust, is a bare trust would therefore be an express trust, as it will have been set up deliberately by the club.

Is Registration Required?

If your Club is a registered Charity or Charitable trust, then you do not need to register the trust. However, HMRC have stated that this exclusion does not apply to clubs and associations that are not registered as a charity but are instead registered with HMRC as community amateur sports clubs (CASCs).

As a result, those unincorporated members' clubs which have their property or assets held in the name of trustees should take action now and review the requirement to register with TRS. The deadline for registration was 1st September 2022 and clubs are encouraged to look at how their premises are held, and to register if they need to.

¹ Certain trusts which are not taxable are excluded from this requirement.



Taxable and non-taxable trusts:

The [HMRC TRS Manual 25030](#) deals with trusts which are taxable. The majority of unincorporated clubs are likely to be bare trusts which are not taxable. Whilst an unincorporated association may be liable to corporation tax this does NOT make the bare trust which it has established a taxable trust for TRS purposes. The bare trust remains a non-taxable trust under TRS.

Valuations:

It is worthwhile noting that non-taxable trusts are not required to provide details or valuations of trust assets at the point of registration. This means that unincorporated clubs in which trustees hold club assets under bare trusts do *not* need to provide asset valuations, because bare trusts cannot be taxable for TRS purposes (see [TRSM10030](#)).

Consideration of this issue:

Because of the potential implications for unincorporated clubs, guidance has been sought from the HMRC Trust Policy Team responsible for TRS. HMRC has confirmed that there is no exclusion for bare trusts which should be registered unless one of the exclusions in the Regulations applies. The position where there is no evidence of bare trust e.g. no trust documentation is unclear and is currently being investigated. These exclusions have been considered in some detail by advisers and HMRC and the conclusion is that no exclusions are likely to be available except for charities. HMRC have specifically confirmed that there is no exclusion for unincorporated clubs registered as Community Amateur Sports Clubs (CASC's).

Implications for sports clubs:

Based on the above, unincorporated bowls clubs which have their property/assets held by trustees should review the requirement to register with TRS. This might also provide a good opportunity to review the documentation supporting the trust arrangements and to ensure they are up to date.

What action do clubs need to take in respect of the Trust Registration Service (TRS)?

1. Obtain information on how your club holds its premises and assets, and work out if there is an express trust, and if so, who are the trustees.
2. Collect information about each of the trustees.
3. Register the trust on HMRC's TRS system. This is often the hardest step so do not delay in getting started.

Information needed

The below are examples of some of the information requested and are based on a fictional "Anytown Bowls Club". Please substitute your club's details.

- Name of the trust: i.e. Anytown Bowls Club Trust
- When was the trust created? Hopefully there is a trust deed which sets out when the trustees took on the role of holding the property on behalf of the club, and the date on the deed would be used. If this is not available then the acquisition date of the property would be the best alternative.



- For each trustee: name, date of birth, nationality, country of residence, mental capacity.
- In addition, for the lead trustee: national insurance number, address, telephone number. The lead trustee is the trustee who receives communications from HMRC about the trust.
- Beneficiaries: If the property is held on behalf of the members, then the beneficiaries would be a Class of Beneficiaries, and can be described as “The members of Anytown Bowls Club”
- Settlor: If the club acquired the premises, and it is held by the trustees, then the settlor would be described as a business and the name of the business could be “Anytown Bowls Club”. This would also be the situation where members and donors gave money to the club and the club acquired the premises.

An alternative situation might be that a benefactor gave the premises to the club. In this situation the settlor would be one or more benefactors as individuals and their details would need to be provided.

Registration on HMRC’s TRS system

The process of registration itself can be complex process so it is recommended that a club utilises someone with good IT skills to undertake the task.

To register go to:

<https://www.gov.uk/guidance/register-a-trust-as-a-trustee>

Go to the bottom of the link and click on the green “Register now” button.

Part of the registration process will require the lead trustee to set up a Government Gateway (GG) user ID and password. This GG account is not the same account as the trustee may have for their personal or business tax affairs. The trustee must select “Organisation” as the type of GG user id required. It can be very useful to make a note of the exact types of identity documentation selected, as the “digital handshake” process of proving a person’s identity is frequently a difficult process. If the identity process does not work try using a different trustee as the lead trustee.

Once the lead trustee has managed to enter the TRS, there will be further questions:

- Does the trust have a Unique Taxpayer Reference (UTR)? This will usually be No, but you should check the club’s circumstances.
- Are you registering an express trust? The answer will be yes.
- Does the trust have any tax liability from 6 April 2022 to 5 April 2023? A property trust that just holds the premises on behalf of the club will usually be able to answer No to this question, but each club needs to look at its circumstances when answering this question.
- Has the trust had any UK tax liability in the last four tax years? A property trust that just holds the premises on behalf of the club will usually be able to answer No to this question, but each club needs to look at its circumstances when answering this question.

It is possible to save a draft version of the TRS for 30 days for circulating to the trustees for approval before submitting the TRS.



A useful document on how to use the TRS is here: <https://www.att.org.uk/how-update-trust-register>

Penalty regime:

The penalty regime comprises:

- In recognition of the fact that the registration requirement is a new and unfamiliar obligation for many trustees, there will be no penalty for a first offence of failure to register or late registration of a trust unless that failure is shown to be due to deliberate behaviour on the part of the trustees.

Whether this is adopted in practice remains to be seen, therefore should your club face a potential penalty for failure to register please contact the Legal Team for assistance.

- Where failures to register are due to deliberate behaviour on the part of the trustees, a £5000 penalty may be charged per offence.

In practice this means that should HMRC become aware of a trust which has not been registered by the relevant deadline – either because that trust has been registered late or because HMRC have identified that trust's existence by other means – HMRC may issue a warning letter to the trustee. If the trust is not yet registered, the trustee should register it at that point. If the trustee then fails to register the trust within the time period stated within the warning letter, or fails to explain why their trust is not liable to registration, a penalty may be issued to the lead trustee.

- Penalties for deliberate non-compliance will be applied on a case-by-case basis. Examples of the circumstances in which such a penalty might apply include: continued failure to register a trust following repeated warnings; or providing details on a given trust that are deliberately inaccurate accompanied by continued failure to amend those details.

There will be an appeal process against any penalty issued, which trustees will be able to follow if they consider they have a reasonable excuse for not complying with the requirements to register or update the trust register.

Further information on penalties can be found here in HMRC's [TRS manual](#).

Club Development Consultancy Responsibility Statement:

This Guidance Note has been produced by Club Development Consultancy (CDC). CDC takes all reasonable care to ensure that the information contained in this Guidance is accurate and that any opinions, interpretations and guidance expressed have been carefully considered in the context in which they are expressed. However, before taking any action based on the contents of this Guidance, readers are advised to confirm the up-to-date position and to take appropriate professional advice specific to their individual circumstances.

Further Resources:



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- The TRS is explained here:
<https://www.thegazette.co.uk/all-notices/content/104031>
- There is some information about how to use the TRS here: <https://www.gov.uk/guidance/register-a-trust-as-a-trustee>
- Information from the Sport and Recreation Alliance is here:
<https://www.sportandrecreation.org.uk/news/industry/trust-registration-service-and-unincorporated>
- Information from HMRC regarding unincorporated associations and community amateur sports clubs is here:
<https://www.gov.uk/hmrc-internal-manuals/trust-registration-service-manual/trsm23060>