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Date: Mon, 19 Feb 2024

Subject: Compliance Training Day 19 - Unincorporated Associations & Trusts

COMPLIANCE  
AND DATA  
PROTECTION

Liberal  
Democrats

Dear Colleagues,

Today's mailing is about ***Unincorporated Associations & Trusts***.

I would like to thank David Allworthy for writing this email.



## 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.

Note: your point of contact should always be the Compliance Team at Lib Dem HQ in the first instance.



## 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 watch 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, please don't hesitate to get in touch by emailing [compliance@libems.org.uk](mailto:compliance@libems.org.uk) if you have any questions.

Also email us if you'd like to discuss this or another matter at our Compliance Clinics on the third Monday of every month. Alternatively, you can book a one-to-one appointment.

Best wishes,



**Kerry Buist** (she/her)  
Head of Compliance and  
Governance  
*Liberal Democrats*

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