

## **Canadian Charities Helping Syrian Refugees**

By Mark Blumberg and Yi-Mei Ting (January 15, 2016)

With the growing Syrian refugee crisis (the “Crisis”), Canadian registered charities and non-profits have started asking themselves what they can do to assist affected individuals either who have made it to Canada or are in other countries fleeing the Crisis. Many registered charities and non-profits are well positioned to provide much needed support and are eager to help individuals affected by the Crisis. While providing charitable activities within Canada to help refugees and outside of Canada to assist those displaced are somewhat different, many of the basic principles are the same. Before taking on any new initiatives, registered charities and non-profits should consider what barriers, if any, impact their ability to take on this new activity. In addition, although we are discussing registered charities and non-profits in this article, individuals and for-profit corporations will also play an important role in the effort.

To assist registered charities and non-profits with the process, we prepared a short list of some of the questions that registered charities and non-profits should consider when deciding how they can help with the Crisis.

### **1. Are your purposes broad enough?**

Registered charities and non-profits are only permitted to carry on charitable activities that fit within their purposes. Purposes are sometimes referred to as ‘legal objects’. Registered charities and non-profits can find their purposes in their governing documents such as Articles, Letters Patent, Supplementary Letters Patent, Constitution, etc.

Registered charities and non-profits that are interested in assisting with the Crisis should first look at their purposes to determine whether their purposes are broad enough to cover any proposed activity. For example, if a charity’s purpose is to provide free dental care to children, the charity can assist Syrian refugees, provided they are children. On the other hand, if a

registered charity's purpose is to protect a wildlife refuge in the Arctic, helping Syrian refugees in the major cities would be outside its purpose and not permitted.

If a registered charity or non-profit's purposes are outdated or overly restrictive and do not permit it to provide assistance to Syrian refugees, a registered charity or non-profit may wish to consider expanding its purposes. Both registered charities and non-profits will need to amend their governing documents. For non-profits that are not registered charities this is generally an easy and straightforward process. For registered charities it is more complicated since registered charities have the additional requirement of seeking [pre-approval from the Canada Revenue Agency](#) (CRA) for any changes to its purposes. Registered charities are only allowed to have exclusively charitable objects. Obtaining CRA approval for object changes can take 6 months or more and it is important that the new objects are charitable and that a detailed description of activities is provided to CRA. Registered charities that are corporations under the Ontario *Corporations Act* will also have to seek permission from the Ontario Public Guardian and Trustee (PGT). We regularly assist charities with making changes to their purposes.

## **2. Do you have support from your stakeholders?**

The decision to expand a charity or non-profit's activities is generally not a unilateral decision made by one individual in the organization and usually requires support from various stakeholders. Discussions at the board and member levels will likely be required and possibly input from employees, volunteers and major donors.

Generally the board is responsible for approving new activities, however, where a charity or non-profit requires changes to be made to its governing documents, membership approval may be required. Sometimes the impetus for a charity or non-profit to take on a new activity is spurred by one person who wants to give funds for a specific cause or project or wants to volunteer on a project.

Registered charities and non-profits should canvass the appropriate stakeholders to ensure that there is sufficient support for any new purpose or activity that it wishes to engage in.

## **3. Do you have sufficient knowledge and experience?**

If the proposed activity fits within a registered charity or non-profit's purposes, another question to ask is whether there is sufficient knowledge and experience to conduct the activity.

Depending on the level of knowledge and expertise within the registered charity or non-profit, the proposed activity may be carried out by the registered charity or non-profit directly, or with another organization. It is important to remember that registered charities have certain requirements that non-profits do not have when working with other organizations that are not registered charities. Registered charities can only gift funds to qualified donees (these are registered charities and other groups that can issue official donation receipts) or can carry out their own activities directly (through employees or volunteers) or through an intermediary.

For most charities it would be easiest to provide funds to another registered charity that is already providing assistance to individuals affected by the Crisis. The CRA maintains a [list of registered charities on their website](#).

Some charities will want to carry out the activities with volunteers or staff people.

If the registered charity intends on using an intermediary such as a non-profit or business, it is important that the registered charity maintain [appropriate direction and control](#) over its resources.

In addition, depending on the amount of funds the registered charity or non-profit has available, it may not be economical to set up an entirely new program, especially if it involves making changes to its governing documents. In situations where the amount of funds is relatively small, the registered charity or non-profit should balance the costs with the benefits of taking on the new activity directly and should consider granting funds to another registered charity to do the work.

#### **4. What are you telling donors?**

If you are fundraising for your efforts it is important for a registered charity or non-profit to be careful not to restrict donations in such a fashion that the funds will become unusable or it will be very ineffective to use them. For example, if a charity or non-profit tells donors that the money it is raising is only for Syrian refugees in Barrie, Ontario, then it may only spend those funds accordingly and it is possible that no Syrian refugees will settle in Barrie and the funds will be useless. Although the Crisis, its fallout and needs of those affected are not expected to end anytime soon, if the restrictions are too narrow it could create problems later on.

For this reason it is extremely important that registered charities and non-profits make it clear to donors that while they are currently raising funds for the Crisis, in the event that

circumstances change or it is oversubscribed, the registered charity or non-profit reserves the right to redirect those funds either to another purpose that is within the charity's objects (such as helping other refugees or relieving poverty) or as the board of directors determines there is greatest need. This caveat should be included on its website, marketing and promotional material, literature, emails, discussions, and fundraising calls, etc.

#### **5. Will you be issuing donation receipts?**

This question only applies to registered charities since non-profits are not permitted to issue donation receipts for tax purposes. Receipting is an important and at times complicated area and registered charities should be aware of the various rules and guidance surrounding the issuance of donation receipts. You may wish to review CRA's policies on [receipting](#) or our [Blumbergs' Receipting Kit 2013](#), which compiles a lot of the CRA policies into one searchable pdf document. You might also find this note helpful: "[Proposal to help Canadians settle Syrian Refugees by revising CRA policy](#)". If you are unsure about the appropriateness of issuing official donation receipts contact the CRA or a legal professional who is knowledgeable about receipting requirements.

It is quite exciting to see the collective interest in the Crisis and the mobilization of people to help. Hopefully this attitude and effort will continue both to help those in need in the Crisis but also significant and long-term Canadian challenges.

*Mark Blumberg and Yi-Mei Ting are lawyers at Blumberg Segal LLP in Toronto, Ontario. To find out more about legal services that Blumbergs provides to Canadian charities and non-profits please visit [www.blumbergs.ca](http://www.blumbergs.ca), [www.canadiancharitylaw.ca](http://www.canadiancharitylaw.ca) or [www.globalphilanthropy.ca](http://www.globalphilanthropy.ca)*

***This article is for information purposes only. It is not intended to be legal advice. You should not act or abstain from acting based upon such information without first consulting a legal professional.***