

Legal structures

For the voluntary and community sector

This factsheet should be seen as a starting point and introduction to legal structures and is not a replacement for professional guidance and support.

If you are thinking about (or are in the process of) setting up a charitable organisation, consider carefully what legal form you opt for. Your legal structure can have a huge impact on any future activities, such as fundraising, trading or contracting because your legal status is closely linked with how you are governed and regulated. It can also affect your legal rights as an organisation.

1) Voluntary and community groups

If you are a community group, local club, or association that is not registered with the Charity Commission, your type of organisation is known in legal terms as an **'unincorporated association'**. This means that even if you have your own name as a group, you are simply a group of people coming together under a shared interest or activity and you have no separate legal identity. Since your organisation is not a separate legal entity in the eyes of the law, individuals take personal liability for any risk or debts and you cannot enter into any legally-binding contracts in the organisation's name. For more information, see the **How to start up a new voluntary and community group** factsheet.

2) Registering for charitable status

If your organisation has charitable aims (as outlined in the Charities Act 2006) and is for the benefit of the public, you may need to register as a charity. The **Charity Commission** regulates and administers all registered charities in the UK, offering much guidance through their website. For more information, see the **Registering for charitable status** factsheet.

Registering as a charity is not a legal form in itself. In order for your organisation to become a separate entity in the eyes of the law, organisations must become 'incorporated', choosing a legal structure that is right for them. The following 'incorporated' forms introduce the main types of legal structures within the voluntary and community sector.

3) Company Limited by Guarantee

Many charities choose to become a Company Limited by Guarantee (CLG) because it is relatively straightforward to set up with non-profitable aims. A CLG is essentially a private company that reinvests any profits back into the company. It has its own members but does not have shareholders or shares – because of this they can apply for charitable status. A CLG means that an organisation becomes incorporated as a legal entity in its own right.

“Choosing the right legal structure goes a long way towards making an organisation run more effectively”
Co-operatives UK

Greater Manchester Centre for Voluntary Organisation

St Thomas Centre
Ardwick Green North
Manchester M12 6FZ
www.gmcvo.org.uk

T 0161 277 1000
F 0161 273 8296
E gmcvo@gmcvo.org.uk

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In order to become a CLG you will need to register with Companies House as well as the Charity Commission (this is often done at the same time). In this circumstance you will be subject to company law but will need to comply with the Charities Act and Charity Commission regulations as well.

4) Industrial and Provident Society (or 'Co-operative)

Industrial and Provident Societies (IPS) are organisations that carry out a business, trade or industry either as a co-operative or for the benefit of the community.

Industrial and provident societies are more expensive to set up than a charity and are generally less common as a legal form because their governance structure is more complex. However, with the co-operative movement itself stemming from Rochdale, industrial and provident societies are still very much in existence in the North West.

There are two different types of IPS. The more common type is the Co-operative Society, which is run for the mutual benefit of its members. In a co-operative, any surplus is still ploughed back into the organisation. The difference is that co-operatives are owned and run by the people who work there, its customers, or by a group of businesses that have come together to form a consortia under the co-operative model. Co-operatives follow the principles as agreed by the International Co-operative Alliance Commission, but are registered through the Financial Services Authority.

The other type of IPS is a society run solely for the benefit of the community, although there is much overlap between the two. There needs to be special reasons why this second type of society should not be registered as a company.

5) Charitable Incorporated Organisation

Charitable Incorporated Organisations (CIOs) are a new legal structure, regulated by the Charity Commission that will be available for new and existing charities. CIOs were introduced through the Charities Act 2006 and they simplify the process for setting up a charity, because you only need to register with the Charity Commission (rather than having to register with Companies House as well). The CIO structure will be most suitable for small to medium-sized organisations that employ staff or enter into contracts. Whilst many aspects will be the same as running an existing charity there are some important differences and trustees will have additional responsibilities. Applications from new charities for registration as a CIO began in December 2012; for existing charities, a staggered timetable is being implemented over 2013-14.

6) Social Enterprise and Community Interest Company (CIC)

Social enterprises have no legal identity or definition, but are a concept that has become increasingly popular over the last decade. Since a social enterprise is not a legal structure in itself and in theory could be claimed under any legal structure, it has caused much confusion among

Key Words

Charity Commission - the regulatory body for all registered charities

CIC Regulator - the regulatory body for Community Interest Companies

Companies House - the regulatory body for companies

Company Limited by Guarantee - a private, incorporated company that reinvests any profits back into the company

Incorporated - A separate organisation or business with its own legal identity

Unincorporated - A group of people coming together under a shared interest or activity, including a community group, local club, or association

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charities and businesses. To address some of this confusion, a new legal vehicle was set up in 2005 in the form of a **Community Interest Company (CIC)**.

CICs are fundamentally a normal business or company, but have some unique and important features to safeguard their social mission. A CIC cannot register as a charity, even though it may be set up for a charitable purpose as defined by the Charity Commission. Many CICs are regulated by Companies House but CICs also have their own **CIC regulator** that registers, monitors, and regulates them. For more information, see the **Social Enterprises** factsheet.

7) Charitable Trust or Foundation

A charitable trust or foundation is sometimes confusing because its name is adopted in many forms. 'Community Foundation for Greater Manchester', for instance, carries out some functions of a trust and is a registered charity, but is also a Company Limited by Guarantee. In legal terms, a charitable trust or foundation must be registered with the Charity Commission, but they are unincorporated (so any trustees carry personal liability for any debt).

Most charitable trusts and foundations in the UK focus primarily on grant-making. They do not engage in other activities, or provide direct support to the sector itself, although many are beginning to explore other ways of addressing the economic, social and environmental challenges of the 21st century. Charitable trusts or foundations have a great degree of autonomy. They are extremely diverse – not only in the scale and number of grants made and the type of trust – but in their age, their style of grant-making and in the areas they support.

A charitable trust must be for the benefit of the public, though it may be set up to benefit a specific cause. The Joseph Rowntree Foundation and Charities Aid Foundation are examples of charitable trusts. Charitable trusts differ from private foundations, which allow private individuals or families to control their assets while protecting their family from taxes and creditors. The Chatsworth House Trust in Derbyshire is an example of a private trust.

Where to go next:

- Simply Legal – All you need to know about legal forms and organisational types for community enterprises by Co-operatives UK, available to download for free from - www.uk.coop/simplylegal
- To access a free 'decision tool' that asks a series of questions about your organisation to recommend a specific legal form, as well as to access a range of additional resources, visit - www.getlegal.org.uk/
- The Charity Commission - www.charity-commission.gov.uk/
- Co-operatives and how to start one up through Co-operatives UK - www.uk.coop/economy/start-a-co-operative
- Industrial and Provident Societies (via the now-archived Financial Services Authority website) - www.fsa.gov.uk/pages/doing/small_firms/msr/societies/index.shtml
- For face-to-face advice and support, contact your local CVS through www.gmvss.net

**For any further information, guidance and support,
please visit www.gmvss.net**

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