

Legal Structures



working for the voluntary & community sector in our area

Legal Structures

Broadly speaking, there are three common forms of legal structure for charities, each with its own type of governing document

Unincorporated Association

A charitable unincorporated association is a group of people who come together to pursue a shared aim. It is a particularly suitable structure for membership organisations, where it is important for the members to have close involvement with the running of the charity. The governing document for an unincorporated association is a “constitution”, model constitutions can be found on the Charity Commission website:-

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/806434/GD3.pdf

Disadvantages

- No legal personality so legal transactions cannot be carried out in the name of the charity.
- Trustees do not have limited liability.

Company Limited by Guarantee

A charitable company is a limited company set up to carry out charitable objectives and enjoy the protection of limited liability. The governing documents for a charitable company are “Memorandum and Articles of Association” often abbreviated to “mem and arts”. Model Memorandum and Articles of Association can be found on the Charity Commission website:-

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/586363/GD1_articles_of_association.pdf

Advantages

- Has legal status of being incorporated with its own legal personality
- Property can be owned by the charity and it can also enter into contracts
- Limited liability of the directors/trustees
- Access to charitable funding that non-charitable bodies cannot have

Disadvantages

- Need to register with both Companies House and the Charity Commission.
- Increased accountability to both Companies House and the Charity Commission
- Possibility of fines if deadlines not met for filing accounts and other paperwork, especially from Companies House.

For more information visit both Companies House and the Charity Commission’s websites
www.companieshouse.gov.uk www.charitycommission.gov.uk

Charitable Incorporated Organisation (CIO)

This is a new form of charitable organisation created by the Charities Act 2006. The CIO gives a charity the main advantages of a Charitable Company – a legal personality and limited liability – but without the dual regulation of Companies House and the Charity Commission. CIO's are registered with and regulated by the Charity Commission. The appropriate governing document for a CIO is a "Constitution". Two suitable model constitutions on the Charity Commission website:-

Association Model constitution – where there is a wider membership other than Trustees

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778241/Association_Model_Constitution.pdf

Foundation model constitution – where the Trustees are the only voting members

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/860465/foundation_model_constitution_230120.pdf

There are procedures to change the structure of most existing charitable structures into CIOs:-

<https://www.gov.uk/guidance/change-your-charity-structure>

Advantages

- New structure with all of the benefits of a Charitable Company – it has a legal identity and limited liability
- Single registration with Charity Commission – no registration with Companies House required
- Fewer reporting requirements – only 1 annual return needed – should be simpler and cheaper

Disadvantages

- Very few disadvantages
- Visit the Charity Commission website for the latest guidance on this new legal structure.
www.charitycommission.gov.uk

CVA Blyth Valley can give information, advice and support through the process of choosing an appropriate legal structure for your organisation, please use the information below to contact us.

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