Steps to Recovery

Support for Community Champions

Infosheet:
How to choose what type of legal entity your organisation should be

To be eligible for public funding, you will need to be a charity. Or, you can be a legal entity with charitable status. As a social organisation, you can choose which type of organisation best suits your priorities. The process of being a registered charity can be lengthy and complex, and it might not be necessary or worthwhile for your organisation to be able to do what you want to do. Here are some of the other options that might better suit your organisation.

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1. Charitable incorporated organisation (CIO)

To be a Charitable incorporated organisation (CIO), you need to have a **charitable purpose** and to **provide a public benefit**. It makes sense to become a CIO if you ***cannot* generate income from trading**, and are mostly reliant on grants and donations.

What is a CIO?
Most charities are regulated by the Charity Commission AND Companies House. A CIO is a charitable organisation that is regulated by the Charity Commission only. To register as a CIO, you need to have trustees, but no more than 25% of trustees are able to be paid for the services they provide to the CIO. All other staff or contractors can be paid. CIOs tend to depend on charitable donations from its supporters.

Advantages	Potential drawbacks
CIOs benefit from **tax breaks**: CIOs pay no tax on their income and get 80-100% relief on business rates (e.g. renting their building).	The Charity Commission is not a 'light touch' regulator (compared to others; see next section on CICs) and the **reporting requirements are more onerous**. Also, the threshold for independent examination ie. an audit is lower for CIOs than charities, so it's likely you will have to get your accounts done externally.
It is **quick to register** as a CIO (no £5,000 income threshold).	CIOs need a minimum of three trustees; having a **board of unpaid trustees** can make you less agile as an organisation.
CIOs can **claim Gift Aid on donations:** you can claim an extra 25p from the government (HMRC) for every £1 you receive in donations.	CIOs do not always get as much recognition as registered charities - many people don't really know what a CIO is.
As charitable organisations, CIOs are **eligible for all funding streams**, including trusts and foundations that only give grants to registered charities.	CIOs cannot generate an additional income through trade (e.g. opening a cafe, or selling tickets to an event), so you will need to **secure funding to sustain core costs** such as staffing.
From a VAT perspective, certain activities delivered via a CIO qualify for concessions, and CIO don't pay stamp duty land tax when purchasing properties or leases.	CIOs are not suitable for **founders of organisations who wish to receive an income and/or maintain control**. The founder of a CIO would sit on a board of Trustees (unpaid) sharing control and responsibility equally.
A CIO can employ staff, own freehold property, take on leasehold property, and enter contracts.	
Even though you cannot get income from trading (e.g. you cannot get people to pay for some of your services), **you can still use your services to encourage people to donate**. For example, you could have a 'suggested donation' attached to tickets for some of your events.	

Checklist for becoming a CIO:
What you will need?

✓ Registration with the Charity Commission to legally come into existence

✓ A minimum of three trustees who are committed to their unpaid role

✓ A constitution or governing document

✓ A register of members (supporters) and trustees

✓ Accounts and an annual return to the Charity Commission each year, regardless of income

Fun facts

- **Introduced in 2013, CIO is the newest type of legal structure.**
- **60% of all charity applications are CIOs (2017)**

Being a CIO Trustee

Who do you have to be?
- Anyone over 16 year old
- You can't work for the organisation you're a Trustee for
- You can't be bankrupt, someone with unspent conviction, disqualified company director

What qualities do you need to have?
- Someone who cares, has passion for the cause
- Commitment (your length of tenure is dependent on the organisation's gorvernant document)

Why's it is good to be a Trustee
- You gain skills and new experiences
- You meet new people
- You will make a difference in your community

2. Community Interest Company [CIC]

The Community Interest Company (CIC) structure allows your organisation to have a **charitable social purpose** whilst exploiting trading opportunities too. It makes sense to become a CIC if you can provide a chargeable service that benefits the community, but you do not exist for the chief purpose of generating profit for shareholders.

What is a CIC?
Introduced in 2005. A CIC is a limited company, which exists primarily to benefit a community, rather than to make a profit for shareholders. Typically CICs are not-for-profit and will have a mix of income including from grants, funding streams, donations and trading income. CICs are regulated by Companies House and not the Charity Commission.

Advantages	Potential drawbacks
As charitable organisations, CICs are **eligible for the vast majority of funding streams**, including most trusts and foundations that only give grants to registered charities.	CICs are **not exempt from corporation tax**.
CICs have **flexibility** and **agility** to respond to the needs of their communities rapidly, without the governance/oversight of the Charity Commission.	CICs have to **charge VAT** on services when the company's income exceeds £80,000.
In a way, CICs get the 'best of both worlds': they can trade continually, whilst also getting grant income too. This helps them to be vibrant and **resilient** organisations.	Not all local authorities give CICs any relief from **business rates**.
It is relatively **straightforward to set up** a CIC - you need three unrelated Directors, who (unlike trustees of a CIO) can be paid.	CICs can **struggle to receive or earn adequate core funding**, and instead tend to get funding for specific projects. This means that when a project comes to an end, they need to search for the next one to sustain an income!
CICs are also relatively **cheap to set up**: it costs £27 to register your CIC online with Companies House.	Some CICs become reliant on grant income and when this fails they have no back up. Because it can be **challenging to create a steady stream of income as a CIC**, sustaining salaried staff or offering long-term contracts is often not possible.
CICs can be 'limited by guarantee', so unlike private companies you do not need to have shares. Not having shares means the people running the CIC are **protected from personal liability for the company's debts.**	

Checklist for becoming a CIC:
What you will need?

- ✓ Three unrelated Directors
- ✓ A 'community interest statement', explaining what your CIC plans to do
- ✓ A constitution or governing document
- ✓ An 'asset lock' (i.e. a written legal promise stating that the company's assets will only be used for its social objectives, and setting limits to the money it can pay to shareholders)

3. Unincorporated Community Group

Many community events and activities can be run by a group of individuals working together without being a formal legal entity. Being an unincorporated group or association is perfectly appropriate if you want to run informal or small-scale community events or activities, such as: coffee mornings; discussion clubs; music events; five-a-side competitions; clean-ups and parent and toddler meetings.

What is an Unincoroporated Community Group?
An unincorporated group is a group of individuals that run community activities. Many such groups primarily benefit their own members, and are therefore not considered to be "charitable" by law, and are not regulated by charity law. Because the unincorporated community group itself is not a legal entity, it is the individual members who enter into obligations, such as contracts, on behalf of the group; the individuals are then responsible as individuals for its debts and other liabilities. An Unincoroporated Community Group should be governed by a constitution - a simple set of rules which for you or your group to help make it clear to everyone involved what you intend to do and how you intend to operate.

However, the time may come when you need a more formal structure for your community group, particularly if you wish to raise finance or funding or enter into a legal agreement. If so, you may need to register with the Charity Commision if your annual income is over £5,000 per year.

Pros	Cons
Quick, easy and **cheap**: there's no need to seek approval of any kind, which is ideal for many small groups, especially without staff or premises.	Some funders may prefer to give grants to groups with a formal structure. And, because of the cap on your income, you cannot apply **bigger sums of money**.
Unincorporated Community Groups are **eligible for most grant funding** (as long as it doesn't bring your total annual income over £5,000).	Unincorporated groups have no legal existence - it is a collection of individuals. This means that the group: - **Cannot own or rent property** in its own right, - **Cannot enter into contracts** -if it wants to rent premises or employ people, it is done in the eyes of the law by individuals on behalf of the group - Individuals members of your management committee are **personally responsible** for the group's obligations and debt are liable if, for example, it is sued.
Unincorporated community groups can still **set up a bank account, buy insurance, rent property, own equipment** and even **employ people** - it's just that an individual has to do this in their name, rather than in the name of the group.	The survival of the group will depend heavily on the group of individuals that run it (but this is often the case with all community organisations)

Checklist for becoming an Unincoroporated Community Group:
What you will need

✓ Management committee - Chair, Treasurer and Secretary

✓ A constitution that includes processes for decision making (e.g. how money is managed; health and safety)

✓ Members who are willing to accept personal liability

4. Charitable Company

Establishing a charitable company currently involves registering with both Companies House and the Charity Commission.

What is a charitable company?
A charitable company is a limited company with charitable aims. It is an incorporated organisation which means it has a legal identity separate from the individuals who make up the company. These individuals must be named and a list of members forms part of the company register. The Directors are agents of the company and are not personally liable for its debts - they are also its trustees and perform the role of the management committee.

The Charity Commission recommends that charitable companies are **limited by guarantee**. This means:
- Having no shareholders
- Reinvesting any surplus back in the company.

As a charitable company, it is also possible to be **limited by shares**. This is typical for companies working solely in the private sector, i.e. where members (shareholders) are investing money in the hope of gaining a profit. However, it is still an option for charitable companies too; it means the owners have limited financial liability, so their personal finances are protected if the company encounters financial problems.

Pros	Cons
Works well for larger organisations with considerable assets (e.g. **equipment, a building**) and employs a substantial number of staff.	Charitable companies are **expensive** to set up, **time-consuming** to run and the annual accountancy fees can be high.
The company can take on legal obligations and buy property in its own name. The organisation (not its members) are responsible for any debts. However directors do have a legal duty to act prudently and to ensure that the company manages its finances carefully.	A Charitable Company **cannot have political or campaigning** aims, but you can have educational ones.
Many funders regard this structure as more stable, as they know the company will continue to exist even if there is a change of people involved. In some cases, this increases your chances of success applying for larger sums of money.	Charitable Companies must follow the Companies Act, which leads to lots of administration. Because a Charitable Company is **regulated by both Companies House and the Charity Commission**, you have to notify both institutions of every change of Directors/Trustees and draw up annual accounts and reports according to a specific format.
	Some funders will give grants only to registered charities, CIOs and CICs.

Checklist for becoming a Charitable Company: What you will need

✓ Trustees and Director(s)

✓ Register with Companies House and Charity Commission

✓ Submit annual report and accounts to both organisations annually