

Legal structures for community organisations

4 minute read

What this guide is and who it's for

This document is designed to help new organisations decide which legal structure best suits their needs and those of their communities.

A key milestone for any fledgling community organisation is making a decision about their legal structure. It is often assumed that this is one of the first decisions that an organisation should make, but taking the leap too early, and realising that you could have chosen better later down the line, can be costly in terms of time and resources.

The situation has become more complicated in recent years with the creation of new legal structures such as Community Interest Companies (targeted primarily at social entrepreneurs) and Charitable Incorporated Organisations (aimed primarily at small charities). The national reduction in the availability of grant funding has also resulted in an increase in the use of innovative approaches to raising funds such as community share issues, which can only be undertaken by Community Benefit Societies or Co-operatives.

Form should follow function

In terms of choosing a legal structure “form should follow function”. How this translates into practice is to first determine exactly what your organisation will be doing, the resources it will rely upon and how it will operate, and then using that information to inform the choice of legal structure. This can be boiled down to a series of questions, the answers to which often make the choice relatively easy.

The questions are:

- Will you have a relatively high financial turnover and do you want to employ staff, take on property or sign a contract?
- Do you need an 'asset lock'? (assets owned by the organisation are secured for community benefit)
- Do you want to be a democratic membership organisation?
- Do you want to work for, as well as control the organisation?
- Where will the money come from to start it up – grant, loan, donations or shares?
- Where will the money come from to run it – grant, donations or earned income?
- Do you want members or workers to personally benefit from profits or surpluses generated?
- Are you undertaking charitable activities and do you want to become a charity?

The table on the following page provides a summary of the main attributes of common legal structures used by community organisations. We hope using that alongside the questions above, will help you to determine the best legal structure for you.

Depending on your choice of legal structure you will either adopt a constitution, articles or rules as the “governing document” of your organisation. Generally, they cover the following areas:

- Name of the organisation
- Your objects (your organisation’s activities or what you are aiming to achieve)
- Powers (what your organisation can legally do - acquiring property or entering into contracts)
- Governance (how Directors are selected, appointment of officers including the Chair, meetings, how decisions are made)
- Assets (asset lock, rules on disposal, financial issues including shares if applicable)
- Dissolution clause (what happens if your organisation closes?)

Understanding the governing document that you wish to adopt is essential and many organisations feel they have to stick to the model documents provided by

the government and other regulators. This simply isn't the case, and organisations shouldn't feel worried about making changes to create a governing document that better suits their needs. This could include making changes in areas including membership (to maximise democracy), altering the size of the board, ensuring that board members nominated by partner organisations etc.

Need more help?

Locality has vast experience in this area and can help you to improve your organisation's choice of legal structure. For more information about our support services contact us at info@locality.org.uk or on 0345 458 8336

	Un-incorporated Association or Trust	Charitable Incorporated Organisation	Company Limited by Guarantee	Company Limited by Shares	CIC - Company Limited by Guarantee	CIC - Company Limited by Shares	Community Benefit Society	Cooperative Society
Incorporated	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Limited Liability	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Constitutional Document	Rules or constitution	Memorandum and Articles of Association	Memorandum and Articles of Association	Memorandum and Articles of Association	Memorandum and Articles of Association	Memorandum and Articles of Association	Rules	Rules
Objects	Any	Must by charitable	Any (unless charity - then charitable)	Any	Community interest	Community interest	For community benefit	Cooperative ideals
Charity	Can be	Yes	Can be	No	No	No	Can be	No
Regulator	None (but if registered charity - Charities Commission)	Charity Commission	Companies House (if charity + Charities Commission)	Companies House	CIC Regulator and Companies House	CIC Regulator and Companies House	Financial Conduct Authority	Financial Conduct Authority
Registration Fees	N/A	None	£20	£20	£35	£35	£100-£1,000	£100-£1,000
Eligibility for grant	Medium	High	Medium (high if charity)	Low	Medium	Low	Medium	Low
Debt Finance available (loan)	Yes (but limited based on view of lenders)	Yes (but more limited as no legal charge on property)	Yes	Yes	Yes	Yes	Yes	Yes
Equity Finance (Shares)	No	No	No	Yes	No	Yes	Yes	Yes

	Un-incorporated Association or Trust	Charitable Incorporated Organisation	Company Limited by Guarantee	Company Limited by Shares	CIC - Company Limited by Guarantee	CIC - Company Limited by Shares	Community Benefit Society	Cooperative Society
Community Share Issue	No	No	No	No	No	No	Yes	Yes
Permanent Asset Lock	No (unless charity)	Yes	No (unless charity)	No	Yes	Yes	No (unless charity)	No
Membership Voting	As per the constitution	One member one vote	One member one vote	Votes per share	One member one vote	Votes per share	One member one vote	One member one vote
Can it distribute profits?	No	No	No	Yes	Yes (capped - regulated by CIC regulator)	Yes (capped - regulated by CIC regulator)	If share issue - share interest	Yes (as a dividend)