

Not-for-profit organisations

A brief guide to legal structures for
community & voluntary organisations and
social enterprises

Contents

Introduction	2
Community Groups and Voluntary Organisations	3
Unincorporated Association	4
Charitable Trust	4
Charitable Incorporated Organisation (CIO)	4
Company Charity	5
Social Enterprises	5
Partnership and Limited Liability Partnership	5
Limited Company	6
Community Interest Company	6
Industrial and Provident Society (Co-operatives)	7
Development Trusts and Social Firms	8
Further help and useful addresses	9



Not for Profit organisations

Introduction

There is a wide range of structures open to organisations which are active in the community. People frequently refer to such organisations as 'not-for-profit' or 'non profit-making' organisations. While these may be handy informal descriptions, these terms have no legal meaning in this country and do not refer to any particular legal structure.

In this sheet, we give brief details of structures for not-for-profit organisations, together with details of organisations which can give more help. For the purpose of this information sheet, we are dividing organisations in the community into two main categories:

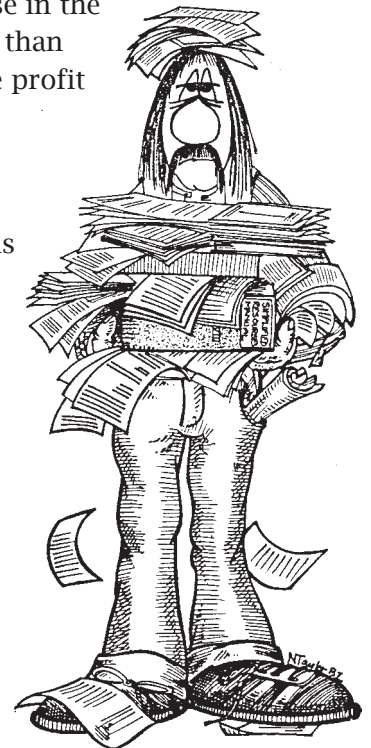
1. *Community Groups and Voluntary Organisations*

This category covers a whole mass of organisations, ranging from small neighbourhood groups run by local people to larger voluntary agencies with staff. They may be working to improve their local area, campaigning for change or providing a service. Some, but not all, will be charities.

2. *Social Enterprises*

Social Enterprises have been defined as "a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners."

Social Enterprises are involved in providing services or making goods. However they have explicit social aims and social ownership with a structure based on participation by 'stakeholders' such as users, community groups and employees. Most aim to be viable trading concerns, making a surplus from trading alone.



Not for Profit organisations

1. Community Groups and Voluntary Organisations

The three usual types of structure which your group may want to consider are:

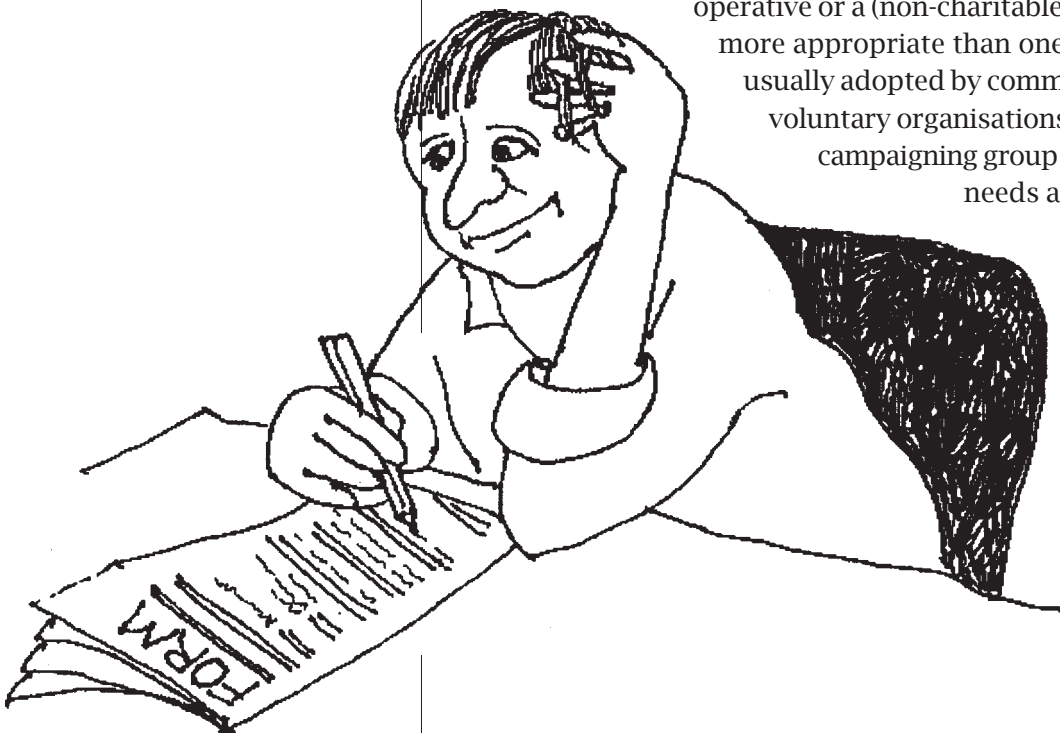
- H Unincorporated Association
- H Charitable Trust
- H Charitable Incorporated Organisation (from Spring 2008)
- H Company Charity

The first two are fairly quick and cheap to set up, and it is expected that it will be fairly simple to set up a Charitable Incorporated Organisation when this form of organisation becomes available. However, establishing a Company Charity can be more time-consuming and expensive.

Whichever structure you choose, you must draw up a set of rules stating how your group will work (known as the governing document). There is a different type of governing document for each structure. Our information sheet 'Community and Voluntary Groups - A Guide to Legal Structures' looks in more detail at these three structures.

A few groups which think of themselves as community organisations may find that a business structure, such as a Co-operative or a (non-charitable) Limited Company, is more appropriate than one of the four structures usually adopted by community groups or voluntary organisations. For example, a large campaigning group may decide that it needs a more formal structure

than its starting point as an unincorporated organisation and that a limited company is more appropriate. Or a small group of community artists may prefer to set themselves up as a form of co-operative.



Not for Profit organisations

Unincorporated Association

An Unincorporated Association is a membership organisation. It can be whatever its members want it to be, and carry out whatever activity you choose. It is the easiest, quickest and cheapest way for a group to set itself up. There is no need even to keep a membership list – anyone who is entitled by your rules to be a member can simply turn up and take part. It is ideal for many small groups, especially those without staff or premises. A large number of groups fall into this category (sometimes without knowing it).

You do not have to seek approval of any kind before setting up and you are free to draw up your own democratic constitution setting out the rules under which your group will be run. You do not have to register with any regulatory body, though if your group has charitable aims and an income above £5,000 per year you are required to register with the Charity Commission.

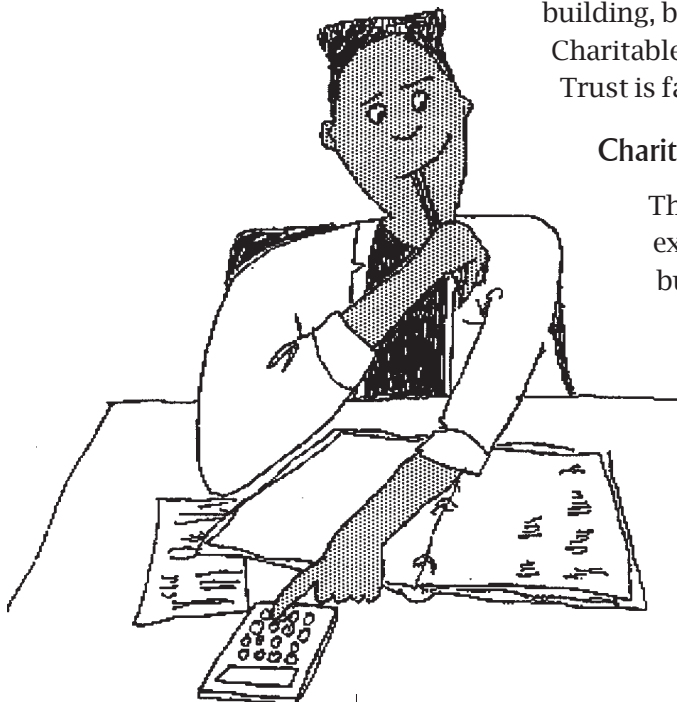
Charitable Trust

A Trust is usually set up to manage money or property for a charitable purpose and it will register with the Charity Commission. It is not a membership organisation but is run by a small group of people, known as Trustees, although the Trust Deed (its governing document) can be written in such a way as to allow for members. This structure is suitable for a charity with more professional aims which wants to employ a very small number of workers or manage a building, but you should bear in mind that the Trustees of a Charitable Trust are personally liable for any debts. A Trust is fairly cheap and simple to establish.

Charitable Incorporated Organisation (CIO)

This new form of charitable organisation was expected to be introduced in the Spring of 2008, but the date has slipped back to late 2008 or early 2009. It will give a charity the main advantages of a company charity – a legal personality and limited liability – but it will be registered with and regulated by the Charity Commission only. Requirements for reporting and for annual accounts should be simpler and much cheaper, in particular for a smaller CIO. The Commission will produce model forms of constitution for CIOs.

Charity Commission Direct
PO Box 1227
Liverpool L69 3UG
Tel: 0845 3000 218
Minicom: 0845 3000 219
enquiries@charitycommission.gov.uk
www.charitycommission.gov.uk



*Companies House
Crown Way
Cardiff
CF14 3UZ
Tel 0870 3333636
www.companieshouse.gov.uk*

***Co-operatives and
Workers' Co-operatives***
*A Co-operative is a business
that is owned and
democratically controlled by
its employees but it is not a
single legal structure. A Co-op
can be established as a
Partnership or a Company
Limited by Shares. But, the
two most common forms are
as a Company Limited by
Guarantee or as a Bona Fide
Co-operative Society.*

*Information and forms for
Partnerships and Limited
Liability Partnerships are
available at
www.clickdocs.co.uk*

Not for Profit organisations

Company Charity

A Company Charity is Limited Company with charitable aims. It is a membership organisation (a list of members is part of the Company Register) and accountable to the community. It also has a legal identity separate from its members and its directors are agents of the company and are not personally liable for its debts.

There are two types of Limited Company. A Company Limited By Guarantee is one in which there are no shareholders and any surplus is reinvested in the company. This type is recommended by the Charity Commission. A Company Limited By Shares is more usually found in the commercial sector, where its members invest money in the hope of gaining a profit. Establishing a Charitable Company currently involves registering with both Companies House and the Charity Commission.

2. Social Enterprises

Businesses covering a wide range of activities are defined as social enterprises. Legal structures to consider are:

- H Partnership and Limited Liability Partnership
- H Limited Company
- H Community Interest Company
- H Industrial and Provident Society
 - a) Bona Fide Co-operative Society (including a Credit union)
 - b) Society for the Benefit of the Community

Partnership and Limited Liability Partnership

A partnership is not generally considered to be a Social Enterprise, though social aims can be spelled out in the Partnership Agreement. A Partnership Agreement is between two or more people and defines how the business will be run. But there is likely to be a problem if the business wants to apply for funding as it will be difficult to demonstrate any wider social involvement. Partners can be self-employed or employees of the partnership and they are personally liable for debts.

There is also a form of Limited Liability Partnership (LLP) which is safer for the partners; they are not personally liable for any losses provided

Not for Profit organisations

they have acted in a reasonable manner. An LLP requires you to register with Companies House and to publish annual accounts.

Limited Company

This may be a company limited by shares or limited by guarantee. Its Memorandum & Articles of Association must state that any surplus is put towards the company's social purpose and usually defines the company as democratic and accountable to the community through its membership. In law, a Limited Company is considered to be a person and it can therefore own land or enter into contracts. The directors are agents of the company and are not personally liable for its debts. This is a flexible structure, suitable for a wide range of Social Enterprises, but regulation by Companies House is fairly strict and there are detailed requirements for annual reports & accounts.

Community Interest Company

A CIC is a limited company with special features to ensure that it works for the benefit of the community. It differs from a charitable company in that it can be established for any legal purpose which benefits the community, whereas a charity must have exclusively charitable purposes. A further advantage is that a CIC is subject to lighter regulation than a charitable company. On the downside, a CIC may not be eligible for funding which is available to a charity.

CICs commit their assets and profits permanently to the community by means of an "asset lock", ensuring that assets cannot be distributed to shareholders. They report to a new independent regulator, the Regulator of Community Interest Companies. A big advantage is that CIC's not-for-profit status is visible as well as assured.

It is worth noting that a CIC cannot register as a Charity, but that a Charity may set up its trading subsidiary as a CIC.

CICs have to register with Companies House as a company limited either by guarantee or by shares and then apply to the new Regulator for CIC status. The CIC Regulator's website has detailed guidance notes on all aspects of setting up a CIC, or converting an existing limited company to a CIC.

*Community Interest
Companies Regulator
www.cicregulator.gov.uk*



*The Financial Services
Authority
- registration of Industrial &
Provident Societies
25 The North Colonnade,
Canary Wharf,
London E14 5HS
Helpline 0845 606 1234
www.fsa.gov.uk*

Not for Profit organisations

Industrial and Provident Society (IPS)

An Industrial and Provident Society (IPS) is an incorporated organisation and its members benefit from limited liability. There are two types of IPS: a *bona fide co-operative society* and a *society for the benefit of the community*. An IPS must register with the Mutual Societies Registration section of the Financial Services Authority, the regulatory body. In general regulation is lighter than for Limited Companies and the accounting requirements far less stiff.

An IPS is run by its members and there are several sets of model rules. Profits must generally be ploughed back into the business. Where part of the profits are used for another purpose, that purpose should be similar to the main aim of the society, for example for philanthropic or charitable purposes. Where the rules of the IPS allow assets to be sold, the proceeds must be put into its business activities. A change in the law has now made it possible for a non-charitable IPS to have an “asset lock”, similar to a CIC above, to ensure that its assets are always used to benefit the community.

An IPS whose aims are wholly charitable is considered an ‘exempt charity’ - it cannot register with the Charity Commission and is not regulated by them, but it is generally bound by charity law. A charitable IPS already has an “asset lock” under charity law.

a) Bona Fide Co-operative Society

This is a business owned and democratically controlled by its employees and founded on seven basic principles, one of which is Concern for the Community. Although a co-op must make a surplus to be successful other motives may be equally important; for example, a recycling co-op will be based on concern for the environment. A co-operative must have at least two members.

A Credit Union is a specialist form of co-operative, regulated by an act of parliament covering financial services. It is a financial co-operative whose savers are its members. Money is saved in a common fund and can be used to make low interest loans to members. A Credit Union is run by a Board of Directors elected from among the membership at the AGM. There are other specialist co-operatives such as housing co-ops which are covered by separate regulation.

Not for Profit organisations

b) Community Benefit Society

A Community Benefit Society (called a Society for the Benefit of the Community until a recent change in legislation) must show that its activities benefit the wider community rather than simply its members. It also has to demonstrate a 'special reason' for registration as an IPS rather than as a company.

Development Trusts and Social Firms

These are two fairly common forms of Social Enterprise but neither is a legal structure in itself. Development Trusts are set up to bring about local regeneration and are often established as Limited Companies with a broad membership. They see their role as seeking "to move beyond provision of welfare services, by setting up enterprises (social businesses) which encourage self-help and reduce dependency."

Social Firms are businesses set up specifically to provide employment or training to disabled people, and they are usually limited companies or co-operatives.

Not for Profit organisations

Further help and useful addresses

The Resource Centre is not able to offer more detailed guidance on legal structures for social enterprises. Please contact the appropriate specialist organisations listed below. Brighton & Hove City Council are currently in the process of establishing a Social Enterprise Development Project whose aim will be to support and develop the city's social enterprise sector.

Community groups and voluntary organisations

Community Matters

12-20 Baron Street
London, N1 9LL
Tel: 020 7837 7887
www.communitymatters.org.uk
Email:
communitymatters@communitymatters.org.uk

Charity Commission Direct

PO Box 1227
Liverpool
L69 3UG
Tel: 0845 3000 218
Minicom 0845 3000 219
www.charitycommission.gov.uk

Companies House

Crown Way
Cardiff, CF14 3UZ
Tel: 0870 3333636
www.companieshouse.gov.uk

Arts council for England (South East)

Sovereign House
Church Street
Brighton BN1 1RA
Tel: 01273 763000
www.artscouncil.org.uk/aboutus/myregion_southeast.html

Social Enterprises

General

Community Interest Company Regulator

CIC Team, Room 3.68
Companies House
Crown Way, Maindy
Cardiff CF14 3UZ
Tel: 029 20346228
Email : cicregulator@companieshouse.gov.uk
Website: <http://www.cicregulator.gov.uk>

Business Link

(Small Business Service)
DTI agency offering advice on all aspects of starting up small businesses, including partnerships and forms of social enterprises.
Advice line: 0845 600 9006
Minicom 0845 606 2666
www.businesslink.org

Social Enterprise Coalition

54 Haymarket
London, SW1Y 4RP
Tel: 020 7968 4921
Email: info@socialenterprise.org.uk
www.socialenterprise.org.uk

Community Action Network

Support for social enterprises
The CAN Centre
Mezzanine Floor, Elizabeth House
39 York Road
London, SE1 7NQ
Email: canhq@can-online.org.uk
Tel: 0 20 7401 5310
www.can-online.org.uk

Page 10

Brighton & Hove City Council

Economic Development Team
Kings House
Grand Avenue
Hove, BN3 2LS
Tel: 01273 291104
www.brighton-hove.gov.uk

Limited Companies

Companies House

Crown Way
Cardiff CF14 3UZ
Tel: 0870 3333636
www.companieshouse.gov.uk

Industrial & Provident Societies

Co-operatives UK

Holyoake House
Hanover Street
Manchester, M60 0AS
Tel: 0161 246 2900
www.cooperatives-uk.coop

Radical Routes

A network of radical co-ops whose members are committed to working for positive social change. Their website has useful guides to setting up a workers coop and a housing coop.

16 Sholebroke Avenue
Leeds
West Yorkshire
LS7 3HB
Tel: 0845 330 4510
www.radicalroutes.org.uk

Co-operative & Community Finance (ICOF)

Brunswick Court,
Brunswick Square,
Bristol
BS2 8PE
Tel: 01179 166750
Fax: 01179 166751
info@co-opandcommunityfinance.coop
www.icof.co.uk

Industrial Common Ownership Movement (ICOM) Limited

A membership organisation promoting the democratic control and ownership of enterprises by the people who work in them. Its members are co-operatives and other businesses under democratic employee control, local co-operative development agencies and other organisations within the social economy. It provides a constitution for co-ops. Contact ICOF above

Co-operative Assistance Network Ltd

South East Region
12 Bellevue Road
Southampton, SO15 2AY
Tel: 023 807 10622
Email: services@can.coop
www.co-op-assist.co.uk

Association of British Credit Unions (ABCUL)

Holyoake House
Hanover Street
Manchester, M60 0AS
Tel: 0161 832 3694
Email: info@abcul.org
www.abcul.org

The Financial Services Authority

Registration of Industrial & Provident Societies
25 The North Colonnade
Canary Wharf
London, E14 5HS
Helpline: 0845 606 1234
www.fsa.gov.uk

Social firms

Social Firms UK

Aspect House, 2-4 Monson Rd
Redhill
Surrey, RH1 2ET
Tel: 01737 764021
Email: socialfirms@cqm.co.uk
www.socialfirms.co.uk

Development Trusts

Development Trusts Association

1st Floor, Red Lion Court
London, EC4A 3EF
Tel: 0845 458 8336
Email: info@dta.org.uk
www.dta.org.uk