

Legal Status of Voluntary and Community Organisations

Voluntary and community organisations in England have a choice about what legal status to adopt. In the eyes of the law an organisation is either:

- **Unincorporated association** – a collection of individuals working together
- **Corporate body** (limited company) – a body with separate existence from the individuals.

Unincorporated Associations

For most small groups a set of rules known as a constitution provides the appropriate legal status. This status means that groups can decide how they run their group for themselves.

The law looks on an unincorporated organisation as a collection of individuals which means it cannot in its own right:

- hold property
- enter into contracts
- Take part in a law suit.

Its officers and committee members have to do things as individuals. If the organisation ends up owing money, they can **be personally liable to meet any debts from their own pockets**. This is called unlimited liability.

- **Charitable trusts,**
- **Friendly societies,**
- **Registered charities which are not also registered as companies,**
- **and unregistered voluntary and community associations (small groups),**

all have the legal status of an unincorporated association where committee members can be personally liable for any debts.

Trusts

A charitable trust is a special kind of unincorporated association, set up to administer money or property (or both), and usually registered with the Charity Commission. Many trusts administer charitable bequests.

Some voluntary organisations choose to have trusts to hold property for them, or to administer large amounts of money.

A trust is set up by a legal document called a trust deed.

- A model trust deed can be obtained free from the **Charity Commission**.

A trust is unincorporated and trustees are personally responsible for its actions and liable if it runs into debt. There are ways of limiting this. It is advisable to seek legal advice when the trust is set up.

Friendly Societies

Unincorporated associations with a benevolent or charitable purpose can register under the Friendly Societies Act. This has two main advantages. They hold property through trustees,

but avoid any legal problems when trustees resign or die can have charitable status without needing to register with the Charity Commission - though for tax purposes they need to submit their draft constitution to the Charities Division of the Inland Revenue.

Friendly Societies have to follow the Act over the contents of their rules, accounts and audit.

- They are accountable to the **Registry of Friendly Societies** and there is a registration fee.

Corporate Bodies:

Community Interest Companies (CICs)

CICs have been designed as a new form of limited company suitable for social enterprises. The assets of a CIC belong to the company rather than the members. This might be a suitable format for a trading arm of a charity, or for an organisation which wished to avoid the restrictions of charitable status.

- They are accountable to the **Department for Business Innovations and Skills**: <http://www.bis.gov.uk/cicregulator/website>

Charitable Incorporated Organisations (CIOs)

CIOs are intended to offer a structure for a charity which has the advantages of incorporation in providing limited liability for the members, but is not subject to the regulation of both the Charity Commission and Companies House.

- They are accountable to **Charity Commission**.

Companies Limited by Guarantee

A company limited by guarantee does not have shares or shareholders, and cannot distribute profits. Instead its members, who pay a subscription, are each liable for a limited sum if the company is wound up (the guarantee). The members elect a board or a committee or directors and can remove them, but the board has day-to-day control of affairs.

- The Registrar of Companies at **Companies House**.

Industrial and Provident Societies

These include co-operative societies for the mutual benefit of members, but also non-profit making organisations for the benefit of the community if they are carrying out an industry, business or trade. They must give all members an equal say in the running of the society.

- The Registrar of Industrial and Provident Societies is **the Registry of Friendly Societies**.

They can apply to the Inland Revenue Charities Division to be classed as charitable for tax purposes.

Charitable Status

Charities are exempt from most forms of direct taxation, and from stamp duty on legal documents. The non-domestic rates on their property are reduced by 80 per cent. Some sources of funding are only available to registered charities.

- An organisation can only register as a charity if the **Charity Commission** accepts that its aims or purposes are charitable.

This can be ascertained by writing to the Charity Commission.

Charity is not a legal status!

For further information please contact: [/www.communitymatters.org.uk/content/467/2-Legal-Structures--Charitable-Status](http://www.communitymatters.org.uk/content/467/2-Legal-Structures--Charitable-Status)