

Section 4
Management Committee, Legal Structures and Charitable Status

4.1 The Management Committee

In this section we will explore:

- what a committee is and how to develop one
- the roles and responsibilities of committee members and management committee office bearers

It should be noted that some of the content of this section is referenced from NICVA's Advice Note 2: Committee Procedures - July 2013.

Committee Roles: An introduction:

Every member of a community / voluntary organisation has a role to play in the effectiveness of the committee they participate in – responsibilities do not fall just to the chairperson or other office bearers.

What is a Management Board or Committee?

The Management Board or Committee is the governing body of an organisation and makes all final decisions. It has general control and management of the administration of the organisation and may rely on volunteers or members of staff, who are appointed by and responsible to the committee, to carry out the day-to-day running of the organisation and to keep the committee informed.

Committee Members should join because they have an interest in and a commitment to the organisation and its future. Each member must be able to work as part of a team, and be prepared to work with the rest of the group towards a consensus, even when there are differences of opinion.

There must be a respect for the confidentiality of the Committee's work and discussions, and any conflicts of interest with other commitments should be declared, and not allowed to conflict with the organisation's work and progress.

Each member must be willing to devote time to attend meetings regularly enough to guarantee the smooth running of the organisation and a proper flow of information. There may be papers to be read between meetings, and time must be allowed to prepare for discussions.

It is important that Committees look at the balance of gender, age range, race, religion, politics, disability, and adjust its membership if necessary to ensure equality. The Committee should also consider what mix of skills would most benefit the organisation.

What size should a committee be?

This will depend partly on the size of the organisation, and how big or small its total membership is. If the Committee is too small, you will limit the range of skills available to carry out the Committee's work, put an unduly heavy burden on the Committee members, and be in danger of not having adequate or required numbers (a quorum) for meetings. If it is too large, it will be difficult to arrange meetings on a date which suits everyone, and getting a consensus amongst a big group can be difficult. A minimum workable number is eight, with the ideal around ten to twelve. The absolute maximum should not exceed fifteen.

Are Committee members paid?

As a rule, no. If an organisation has charitable status, Committee members may not receive a salary, fee or any other form of payment for any of their services to the charity. Most organisations include this ruling in their Constitutions, whether they have charitable status or not. However, members can receive out-of-pocket expenses (which should be agreed in advance).

Should staff be on the Committee?

Staff, because they receive a salary for their services to the organisation, should not be on the committee. Staff may be invited by the Committee to attend meetings, so that their expertise and advice are available, but they do not vote. They may also be required to give reports on programming, finance, events etc. when attending Committee meetings, which is a method of ensuring that the Committee has regular up-to-date information presented to them, with an opportunity for discussion.

The role of the committee may be summarised as:-

- Provide emotional support
- Co-ordinate interaction
- Generate ideas
- Make collective decisions
- Develop a collective capacity.

Key Roles¹

The Committee needs to elect officers, who then take on particular duties to make sure that the organisation runs successfully.

The Chairperson

The role of the Chairperson is:

- To lead, motivate and manage the group to chair meetings and ensure that they are run in an organised and orderly manner:
 - Establish ground rules
 - Prepare the agenda and make sure minutes are prepared
 - Ensure participation of members
 - Protect people
 - Adjudicate in disputes
 - Deal with problem people
- To sure that the “Officers” carry out their roles appropriately
- To ensure that group members participate in discussion and share the workload of the group
- To keep speakers to the point
- To act as a signatory and co-signatory on cheques or official documents
- To promote fairness and to resist the opportunity to put own opinion first
- To strive for consensus and to exercise a casting vote when necessary
- To ensure tasks allocated are carried out

¹ *NICVA's Advice Note 2: Committee Procedures - July 2013*

- To sum up discussion preparatory to decision
- To speak for group publicly, unless otherwise agreed
- The Vice Chairperson assumes the role of Chairperson in his/ her absence

The Treasurer

The key role of the Treasurer is:

- To keep books of accounts and record all income and expenditure
- To give and obtain receipts when practicable for all income and expenses
- To lodge all monies, except for a small float, in the bank
- To report state of finances at all meetings and to invite questions
- To ensure that the organisation's annual accounts are audited or examined by an independent person
- To prepare the annual statement of accounts for approval by the committee first and then for submission to the Annual General Meeting
- To set up and acts as a co-signature on the bank account
- To build relationships with banks/ sponsors

The Secretary

The key role of the secretary is:

- To prepare the agenda in consultation with the chairperson
- To record decisions of meetings clearly and briefly
- To ensure that the committee is acting in line with its governing document and any standing orders
- To ensure that the Chair is fully briefed
- To record minutes and circulate them
- To notify members of the time, date, place and agenda for forthcoming meetings
- To receive and deal with correspondence on behalf of the Group
- to prepare annual report for committee approval and then submission to the Annual General Meeting

The Public Relations Officer

The key role of the Public relations Officer is:

- To liaise with the media and find ways to promote the work of the group
- To devise ways to communicate with the community, beneficiaries of the Group's work and stakeholders
- To act as a spokesperson and/ or public face of the group or assist the chairperson to do so

Committee Members

The role of the committee members involves:

- To know the purpose of the meeting
- To confirm attendance at the meeting
- To be on time

- to attend regularly - send an apology if you can't
- To find out if the committee has rules and regulations – are these written down – read them
- To get involved in discussions
- To respect the chairperson or other speakers
- To share useful ideas and offer to lead if you have special skills
- To understand and support established ground rules
- To help ensure group consensus
- To prepare for the meeting by reading all minutes and papers in advance
- To be loyal to the committee - respect confidentiality

How Often Should a Committee Meet?

A committee should meet probably at least three or four times a year, but not so often that committee members cannot fit frequent meetings into their lives, and then stop attending. The group will also need to have an Annual General Meeting (AGM), where you review the activities of the past year and consider the annual accounts. To keep your AGM short and focused, it is a good idea to have reports, minutes and the accounts circulated in advance. You can make your AGM a social occasion or hold it before an event. You will also elect new committee members at your AGM.

Your constitution will include how regularly the committee needs to meet, along with guidelines for holding an annual general meeting. It should also include the procedure for giving people notice of when meetings are to take place and what you need to do to call an emergency general meeting (EGM) should the need arise. Your constitution will also set out the minimum number of attendees required (quorum) to make a meeting viable.

What if a Committee Member Leavers?

Some members will resign because of other pressures on their time or changes in their circumstances, so there will be some natural turn-over. If members leave because they are dissatisfied or because of disagreements within the Committee, it is important to evaluate why this has happened so that you do not continue to lose Committee members, or allow dissatisfaction to spread.

Who sits on the Committee?

The organisation's Constitution may also require the period of time any member can serve on the Committee to be limited to two or three years, although some Constitutions allow a second term of office before the person must retire. Your Constitution will define how new members are recruited, and will address issues such as Sub-committees and co-opting additional member/skills. Limited length appointments allow new faces and talents to be brought in, and prevent the Committee from self-perpetuating. At the same time, it is important to keep continuity and retain some of the previous Committee who still have contributions to make.

As well as responsibilities for the organisation's management, finances, legal matters, what else should a Committee be doing?

Even if members of the organisation's staff are in attendance at your meetings, you need to make sure you keep all staff and volunteers well informed about developments. You do not want them to hear important news about the organisation from outside sources or even read it in the newspaper, so communications and their

timing are important. You may decide that your minutes should be available to staff and volunteers, and put them up on a notice-board.

You also need to assess your work as a Committee, and how effectively you are pushing on with the organisation's aims and objectives. You may decide to do this around the time of your Annual General Meeting, or to make it a more formal process every two or three years.

Finally, as you are the representative body for the organisation, you need to communicate with and exchange information with other bodies who should be aware of your work and progress.

4.2 Governance – Unincorporated and Incorporated Organisations²

It should be noted that some of the content of this section is referenced from NICVA's Advice Note 2: Committee Procedures - July 2013 and Advice Note 3: Legal Structures for Voluntary and Community Groups – July 2013. These Advice Notes are an excellent place to review the type of structure most suitable for an organisation.

In this section we review the various legal structures which a group may choose to adopt as well as the advantaged and disadvantages of each.

Legal Structures

Choosing the legal format of your organisation depends very much on what you want to do and how. There are several legal structures to choose from. Groups should choose the structure which most suits their present needs and their future as they move forward. A group should also consider whether its activities are going to be charitable and if registering as a charity is necessary.

The charitable nature of a group is determined by the objects for which it is established and the activities it carries out. Once a group has considered the range of options on offer options, it may adapt a structure somewhat so that it suits the group and satisfies the Inland Revenue's requirements as a charitable group. There are advantages and disadvantages to each structure and these should be considered carefully. In some cases one aspect of the structure is an advantage to one group, yet the same aspect may be seen as a disadvantage by another group.

The main functions of a legal status from the point of view of community and voluntary organisations are:

- To provide protection for members
- To facilitate collective action
- To facilitate management of the group.

Legal Status

A Legal status is necessary in order to be able to act (or communicate) through the legal system.

The legal system does not recognise people or groups who do not have a legal status. They cannot enter into a legal contract on behalf of their group without a defined legal status.

In this section we outline what is meant by:

- Associations
- Company Limited by Guarantee;
- Community Interest Company;
- Charitable Incorporated Organisation;
- Industrial and Provident Society;
- Written constitution;
- Trusts;

² NICVA's Advice Note 2: Committee Procedures - July 2013 and Advice Note 3: Legal Structures for Voluntary and Community Groups – July 2013.

- Friendly Society;
- Charitable Status;
- Incorporated under the Charities Act

Choosing the best structure for your group

Before looking in more depth at the different options available, a group should ask itself the following questions. The answers to these will help guide the group to choose the most suitable structure:-

- what is the group set up to do? What is it aiming to achieve?
- who can become a member and how does it intend to recruit members?
- who will be responsible for managing and controlling the group? How will they be appointed? What will they be authorised to do?
- how will the group's members meet and make decisions?
- does your group or organisation intend to be borrowing money and / or giving grants or loans to others?
- does the group own property or is it likely to own property in the future?
- is it likely that your group will be handling large sums of money?
- will the group employ staff in the future?
- is the group thinking about charitable status?

When a group is in the early stages of setting up, it is likely to be the steering group who will need to consider these questions. The group may not have all the answers straight away but it will have an idea about the nature and likely scale of what the group is being set up to achieve.

The two main options are:

- **a) To remain unincorporated or**

This means that an unincorporated group cannot:-

- hold property in its own name
- enter into contracts in its own name
- undertake legal proceedings in its own name

Individuals acting for an unincorporated group (that is the executive or management committee members) may be held personally responsible when things go wrong (for example if the group ends up in debt or with outstanding legal obligations).

- **b) To become incorporated**

Becoming incorporated gives your group or organisation a legal identity of its own (separate from the individuals involved). This means that it can:-

- hold property and enter into contracts
- borrow money
- defend or take legal proceedings

Being incorporated offers individual members and committee/board members protection against unlimited personal liability. If your group wants to employ someone or wants to enter into a contract concerned with buying or leasing property, then becoming incorporated would be a sensible route to take.

1) Unincorporated Associations

This is the most common form of unincorporated structure for voluntary and community organisations and is favoured by new and small groups. The association exists where a group of people band together to carry out an agreed object (other than for profit) and where it is intended that there should be some provision for continuing membership and the future existence of the group.

The association is governed usually by a constitution, the legal document which governs the association. It sets down the objects of the association, its membership and structure, and the powers it gives itself to carry out its objects. It forms a contract between the members and establishes the rights and duties they have to each other.

The association is composed of members who delegate their power to a management committee to carry out the association's activities. The management committee is elected by and accountable to the members.

An Unincorporated Association is most suitable for small groups with limited or specific purpose(s) that operate on a small budget, do not own property, employ staff or enter into lease agreements or contracts.

Advantages of an Association

- **Flexibility** – the constitution of the association can be tailored to fit the varying types of association. The association is free from the statutory controls which govern a limited company.
- **Cost** – an unincorporated association is cheap to set up and run.

Disadvantages of an Association

- **No separate legal identity** – an association has no separate legal existence apart from the members of which it is comprised. Within the association the members and the management group act as a group of individuals and the group has no separate legal status. This means that the association cannot enter into contracts in its own name, instead these activities are carried out by individuals within the association.
- **Property** – an association cannot own property in its own name and therefore it must make provision for individuals to be appointed as trustees to hold the assets of the association. Problems can arise where trust property continues to be vested in individuals, whether formally appointed as trustees or not, who are no longer connected with the running of the organisation and can no longer be reached or where the association has become defunct.
- **Personal Liability** – both members of the association and the management committee may incur personal liability. If, for example, a contract authorised by the management committee is entered into and the charity's funds are inadequate, the individual members of the committee would be liable to pay the debt. If an officer of the association incurs liability in the course of her/his work for the charity, has acted properly and not negligently within the terms of the constitution and the authority conferred upon her/him, s/he will be entitled to be reimbursed from the charity's funds. The management committee of an association should ensure that the constitution is complied with, that reasonable care is taken in dealing with the charity's affairs, that commitments are only entered into if sufficient funds are available, and that competent agents and

employees are employed. Proper insurance should be taken out to cover foreseeable risks.

2) Company Limited by Guarantee

The Legal structure which best suits a non-profit making organisation is a company limited by guarantee. This is a useful structure for community groups/organisation which:-

- are actively involved in (or planning to be involved in) the running of projects which require lease or purchase of premises, long-term contractual commitments or the employment of paid staff.
- are handling substantial sums of money
- want the option of applying for charitable status (if the group has charitable purposes and activities which offer community benefit)

It provides a legal identity separate from that of the individual members. The legal structure allows the company to:

- Buy and own property in its own name
- Enter into contracts in its own name
- Employ people in its own name
- Defend or take legal proceedings in its own name
- Protect management committee members from personal liability
- Borrow money in its own name

A Company Limited by Guarantee as a legal structure was designed for non-profit making organisations. A Company limited by guarantee has:

- No shareholders
- Any profits made are re-invested in the company
- Members contribute £1 - £5 (nominal sum). If the organisation should run into debt or receivership, this is their individual liability.

Benefits of a Company limited by Guarantee

The benefits of a Company Limited by Guarantee are:

- It provides a legal identity
- Protects individual members from legal liability

If a legal identity does not exist then individual members of the management committee can be held responsible for debt or can be sued.

If the organisation has a legal identity, its credibility is increased with:

- Funders
- Banks
- Landowners
- General Public

Many funders require organisations in receipt of substantial funding to be a Company Limited by Guarantee. Additionally a Company Limited by Guarantee:

- Encourages members to participate in all aspects of the Association
- All members have equal voting rights
- There is a requirement to have a membership
- Power to elect and remove the Board of Directors

How to Become a Company Limited by Guarantee

Companies Office regulate the establishment and on-going monitoring of companies limited by Guarantee as set out in the Companies Order 1986 and related Statutory Rules and Statutory Instrument (Northern Ireland).

The steps to becoming a Company Limited by Guarantee are:

- Check with Companies Office to check if proposed name of company is acceptable
- Draw up a Constitution
 - Memorandum
 - Articles of Association
- One person may subscribe to the Memorandum of Association
- Sign Memorandum and Articles of Association, signatures of subscribers and forward with the registration fee to companies' office.
- Pay the standard registration fee.

Memorandum of Association

The Memorandum of Association sets out the name of the Company, the intended location of the Registered Office and its object or aims. It contains a clause that the liability of members is limited, and specifies the nominal amount that the members are liable for. The Memorandum of Association also contains the names and addresses of the subscribers.

Articles of Association

This is the Rules of the Organisation and provides for:

- The election of Board of Directors
- Maintaining Accounts
- Role of Officers
- Running Meetings
- Number of Members
- List of who the Members are

It is recommended that you keep the Articles of Association as broad as possible to avoid changing them if and when your organisation changes. The Board of Directors are responsible for ensuring that the Organisation adheres to its Articles of Association and Memorandum. Any changes to the Memorandum of Association must be notified to companies' office with a copy of the amended Memorandum and Articles of Association. Any changes must be within the requirement of Company Law and the rules as laid out in the Articles of Association.

Companies Act Requirements

Board of Directors

The Board of Directors are elected normally at the organisation's Annual General Meeting. The Company can decide on the number of Directors and duration of their term in office. The Board of Directors are legally required "to act in the best interests of the company, its members and its employees". Also, the Board of Directors must ensure the company is run responsibly and to its aims and they must ensure that the company fulfils all its legal obligations as a company limited by Guarantee.

Failure to comply/fulfil these legal obligations will result in the Company and/or its Directors being prosecuted or struck off by Companies Registration Office

The Board of Directors do not necessarily have to be the Management Committee. The Board of Directors may only meet twice per year and delegate its day to day responsibility to a management committee, but the Board of Directors retain the overall responsibility.

Meetings

All members of the company are invited to meetings and its Annual Meeting. The meetings control the overall management of the Company. Notice of meetings must be in accordance with the Articles of Association as forwarded to Companies Registration Office.

Also all General and Board Meetings must be conducted in accordance with the Company's Articles of Association. The Company must call General meetings at the request of members and/or Directors again in accordance with the Articles of Association.

Annual General Meeting

An Annual General Meeting must be held within eighteen months of establishment as a Company, and within every fifteen months from then on. Notice of an Annual General Meeting must be in writing in accordance with Articles of Association. A minimum of 21 days' notice must be given, unless a shorter period is agreed with the auditors, and the members who are entitled to attend and vote.

Minutes of Meetings

Minutes must be kept of the following meetings:

- General Meetings
- Board Meetings
- Subcommittee meetings

The Minute Book must be kept at the registered office of the Company, and be available for inspection by its members.

Resolutions

Resolutions which require a three quarters majority at a general meeting are called special resolutions. All resolutions must be notified to Companies Registration Office within 14 days of being passed.

Annual Returns

Annual Returns must be made after first the Annual General Meeting and each subsequent Annual General Meeting (Form 3715). It has 28 days from the date to which the return is made up to do this.

Information that should be provided as part of the Annual return:

- Address of registered office
- Address where register of members is kept if different from registered office
- Names and addresses of company directors
- Name and address of the company secretary

The Annual Return must be approved by the Board of Directors and a copy of the Company's Audited Accounts, Auditors Report and Directors Report must also be provided with the Annual Return to the Registrar in Companies Registration Office.

Auditors

The Company must appoint auditors to audit the company accounts at the AGM. Auditors cannot be the Company Secretary, or director or a close relative, employee or spouse of either.

The Auditor is automatically re-appointed at subsequent AGM's unless there is a change in auditors. New Auditors must be proposed and appointed at the AGM.

Register of Members and Directors

Statutory registers which must be maintained:

- Register of company members
- Register of all company directors and company secretary
- Register of Directors interests
- Register of charges

All Registers must be kept up to-date. The Registers must be kept at the registered company address. If kept elsewhere Companies Registration office must be informed of this change of address.

Changes in Directors or Company Secretary

Any changes in the names of Directors or Company Secretary or change in their home address must be notified to Companies Registration office within 14 days of the change (Form 296).

Registered Office

The Company must have a registered office from the date it starts business or within 14 days of becoming a company limited by guarantee whichever is the earlier.

The Address of the Registered Office must be provided with the Memorandum and Articles of Association to Companies Registration Office (Form 295). Any change in address of the Registered Office must be notified within 14 days of changed to Companies Office. The name of the Registered Company must be displayed outside the Registered office. The Certificate of Incorporation, (states that the company is a registered company limited by guarantee) must be displayed in the registered office.

Stationery

Company stationery must include:

- Full company name
- Place of registration
- Registration number

There is no requirement to state the Director's names. However if Directors are to be included, then all directors must be included.

Role of Company Secretary

A Company Limited by Guarantee is required to have a Company Secretary. The Company Secretary is appointed by the board of directors and his/her role is to make sure that the company adheres to the rules set out in the Articles of Association, which includes the requirements of the Companies Registration Office as well as the rules of the organisation. Generally the role of the Company Secretary includes:

- Ensuring that all the requirements of the Companies Registration Office (as listed above) are fulfilled;
- Ensuring that the rules of the company as outlined in the Articles of Association are maintained;
- Ensuring that the company's registers are kept up to date; notifying the Companies Office within fourteen days of any change of directors or change of their home address;
- Ensuring that the AGM is held within eighteen months of becoming a company and at least every fifteen months from then on;
- Ensuring that proper notice is given of general and board meetings and that they are run according to the Articles of Association; calling general meetings at the request of the directors and/or members, according to the rules in the Articles of Association;
- Ensuring that the minute books are properly kept; ensuring that the income and expenditure account and balance sheet are properly prepared and audited; sending in the annual returns to the Companies Office; keeping copies of all annual returns and accounts;
- Ensuring that the certificate of incorporation is prominently displayed in the registered office;
- Ensuring that a name plate is prominently displayed outside the registered office;
- Ensuring that the company name and registered number is shown on the organisation's letterhead;

- Notifying the Companies Office of any change in the Memorandum and Articles of Association;
- Ensuring that all legal agreements or contracts are properly discussed and agreed by the directors; and
- Ensuring that all legal documents are kept in a safe place.

Changes in Company Law

Changes in Company Law can occur which will affect Companies Limited by Guarantee. It is the responsibility of each company to keep up to date with changes in Company Law.

Advantages of a company limited by guarantee

- **Flexibility** – there is power in the Companies Act 2006 to alter both the objects of a company and the regulations which govern administrative matters. However, a charitable company will contain a provision that no alteration will be made which would cause it to cease to be a charity at law.
- **Corporate identity** – the company is a legal person capable of owning property, or taking or defending actions in court. As it can own property in its own name, there is no need to appoint holding trustees to hold the property of the charity.
- **Limited liability** – the company is a legal person and its debts and contracts belong to the company itself and not to its members. A member or officer of a company is not personally liable if the company is sued or owes money. Her/his liability in the event of the company being unable to meet its debts and going bankrupt, is limited to the amount that s/ he guarantees when becoming a member.

This amount is usually £1.00.

Members and officers of the company are protected by this limited liability of the company in respect of contracts they make on behalf of the company.

This limited liability is important where the charity is considering borrowing large sums of money, buying land or buildings, or employing staff who might create liabilities for the charity by acting outside the practical control of the person responsible for overseeing staff.

However, the protection from liability is not absolute. If an officer or director acts negligently, or not in the best interests of the company, or while disqualified, etc, they may not be able to avoid personal liability. It is worth noting as well that limited liability does not always provide protection, as banks and lending institutions may require a personal guarantee from directors before they are willing to lend money. Businesses or suppliers entering into contracts with the company may also insist on the individual directors entering into any transaction as individuals and not as company directors.

- **Involvement of members** – the company is a democratic structure where members have ultimate control over those managing the company. Directors are answerable to the members for the conduct of the company's affairs and

are capable of being removed from office by a resolution of the company. New members can join the company and can also be expelled from the company.

- **Continuity** – until it is wound up, a company has perpetual succession, i.e. it continues to exist, even though its members may change, die or cease to be involved in the activities of the company. While winding up the company is a complex business, it is preferable that this is undertaken, when the purpose for which the group originally formed is no longer applicable.

Disadvantages of a company limited by guarantee

- **Cost** - the cost of setting up a company is higher than the cost of setting up an unincorporated body. For example, a fee is usually charged for drafting the memorandum and articles of association - the 'governing document' of a company. There is a registration fee when registering the company at Companies House and producing the accounts in company format may also cost more.

There are on-going costs of money and time in administration of the company once the company is up and running. For example, there is an annual fee for making annual returns to Companies House (i.e. details of the company's directors, secretary and official address). Dissolving a company also involves time and expense.

- **Public Accountability** - Companies' details are stored on the index of company names (the index) which is open to the public. For a small fee anyone can look up details about an individual company. This may not be seen as a disadvantage to many as it assists those voluntary organisations which believe in openness and accountability to the general public.
- **Bureaucracy** – companies must comply with the statutory requirements of the Companies Act 2006 which sets out detailed rules for the administration of a company. The need to comply with company law could be a burdensome responsibility on members of a voluntary management committee.

Most voluntary organisations incorporate when they secure funding and are able to pay workers with the time and know-how to ensure that company administration is dealt with efficiently. The limited liability offered by the company structure may not be required by charities which seldom get involved in quasi-commercial activity where limited liability is important.

Where groups are considering taking on employees or borrowing large sums of money, then the advantages of the company structure may outweigh the disadvantages. In most other cases those responsible for the activities of the charity may protect themselves against most hazards by insurance.

Other types of legal structures

3) Community Interest Company

The Community Interest Company (CIC) was introduced in 2007 as a new corporate structure for non-charitable social economy enterprises that want to use their profits and assets for the public good. The CIC may be a company limited by guarantee, a

private company limited by shares or a public limited company limited by shares and is subject to company legislation.

It will have to register with Companies House with memorandum and articles of association and a community interest statement to confirm that the company will provide benefit to the community. It does this by describing its proposed activities, who the company will help and how. CICs are regulated by the UK wide CIC Regulator which can provide information and advice on setting up and running a CIC.

One of key characteristics of a CIC is that it has an asset lock which ensures that the company retains its assets for the benefit of the community, as stated in the community interest statement.

The same advantages and disadvantages apply to a CIC as for the company. As the CIC is not a charitable organisation, it doesn't have the same restrictions on paying directors. Directors of a CIC can be paid therefore this type of structure is attractive to social entrepreneurs who want to establish an organisation which benefits the community but also want to derive payment for their work.

The CIC regulator has produced some very detailed guidance and information on the CIC which can be downloaded from its website.

4) Charitable Incorporated Organisation

The Charitable Incorporated Organisation (CIO) is a new legal structure specifically for charities. The CIO is similar in some ways to a limited company offering protection of trustees from personal liability without the need for dual registration with company and charity law. The CIO will be regulated by the Charity Commission for Northern Ireland.

Secondary legislation is required to make it a viable option for charities and it is envisaged that it will not be available before 2011. In the meantime, charities may incorporate as a company limited by guarantee and then convert to a CIO when it is available.

5) Industrial and Provident Society (IPS)

An IPS is a society carrying on an industry business or trade for the benefit of the community. It must also be either a cooperative society or a business conducted or intended to be conducted for the benefit of the community. An IPS tends to be a bona fide co-operative society which is democratically run and which ploughs profits back into the society. A minimum of seven members is required to set up an IPS. An IPS is set up by the adoption of model rules or rules drawn up by the group itself.

This type of legal structure was established in the 19th Century to meet the needs of the co-operative movement under the auspices of the Industrial and Provident Society Act. Co-operative bodies can take the form of a company limited by guarantee, but most opt for IPS. The society acquires a legal status separate from its membership in the same way as a limited company.

An important difference between a limited company and an IPS exists. A Company Limited by guarantee can be established for any (legal) purpose. In order to be registered as an IPS, a society must be formed for "carrying on any industries, businesses or trades". The main function of an IPS is in the area of "profit making co-operatives" as it allows profits to be distributed amongst the membership.

6) Trusts

A public trust is the traditional structure for a charity and many older charities are trusts. A charitable trust is usually governed by a trust deed which sets out the objects of the trust, names the trustees and provides for the administration of the trust. A trust is usually established by a group that does not require a membership structure for example a grant making trust or a small overseas aid organisation or a group wishing to settle property on charitable trusts. Trustees have statutory duties and powers under the Trustee Act (NI) 2001.

A definition of a trust is:

“An arrangement created by a document known as a deed of trust, normally to hold funds or property on behalf of another person or persons e.g. an unincorporated body wanting to buy a house”. The group cannot do this because it does not have a legal entity of its own. A group can set up a trust with appointed trustees who own the property on behalf of the group.

A trust can be cumbersome and undemocratic. It can be difficult to remove trustees, a group only has indirect control over its own property. The trust only has legal control over the property and does not provide a legal responsibility for the general work of the group. Individual members are still largely responsible for the activities of the group.

7) Friendly Society

The Friendly Society is related to the Industrial and Provident Society. In legal terms the Friendly Society is separate and distinct from the IPS.

There are three types of Friendly Society. The benevolent society is the type applicable to voluntary groups. It is not incorporated, i.e. it does not provide a separate legal status to the group. A Friendly Society would appear to have little relevance for community and voluntary organisations.

Further Information and updated guidance on this information contact:

Companies House Belfast

Second Floor
The Linenhall
32-38 Linenhall Street
Belfast, BT2 8BG
Tel: 0303 1234 500
(national call rate)

Website: www.companieshouse.gov.uk

Companies House produces a range of guidance notes and online forms - Sources of information on establishing a Company Limited by Guarantee

NICVA

61 Duncairn Gardens
Belfast BT15 2GB
Tel: 028 9087 7777
Fax: 028 9087 7799
Email: cas@nicva.org
Website: www.nicva.org

NICVA's governance and charity advice staff can assist with drafting a suitable governing document for your organisation as well as offering specialised training on governance issues. All of NICVA's Advice Notes, as well as the most up to date information about the implementation of company and charity law, can be downloaded from www.nicva.org.

The CIC Regulator

CIC Team

Room 3.68

Companies House

Crown Way, Cardiff CF14 3UZ

Tel: 029 20346228. This is a 24-hour voicemail service.

Email: cicregulator@companieshouse.gov.uk

Website: www.cicregulator.gov.uk/

Registry of Credit Unions and Industrial and Provident Societies

1st Floor, Waterfront Plaza

8 Laganbank Road

BELFAST BT1 3BS

Tel: (028) 9090 5343

Website: www.detini.gov.uk

4.3 Charities Law³

It should be noted that the content of this section is referenced from NICVA's Advice Note 1: Charitable Status- July 2013 and NICVA briefing paper on Charity registration and the public benefit statutory guidance - March 2013. As this is a changing environment, we would advise users to check for any new advice in regard of this topic at <http://www.charitycommissionni.org.uk/index.aspx>

Background⁴

The Charities Act (NI) 2008 (the Act) came into being in September 2008. A year later the Charity Commission for Northern Ireland (the Commission) was established and in 2011 it was granted its powers of regulation, investigation and enforcement.

Until now the Commission has been unable to establish the register of charities because of issues with the wording of the public benefit test in the Act. Now that this has been resolved by an amendment to the Act the Commission is in a position to establish the register. Before the Commission takes applications to register it must first consult on its statutory guidance on the public benefit requirement. This is currently underway and is due to be completed at the end of April 2013.

Introduction

The Commission is the regulator of all charities operating in Northern Ireland and as part of its role it is responsible for establishing and maintaining the register of charities. In assessing applications for charitable status the Commission must determine if the applicant fulfils the public benefit requirement.

One of the Commission's objectives, as laid out in the Act, is to promote awareness and understanding of the public benefit requirement, to issue public benefit guidance and to consult upon it. In addition to the statutory guidance the Commission has also produced supporting guidance on each of the 12 charitable purposes and further supporting guidance on the 'public' and 'benefit' elements of the public benefit requirement. At the same time it is also consulting on its guidance on registering a charity as satisfying the public benefit requirement is a key aspect of determining if an organisation is a charity or not.

The list of consultation documents may appear daunting at first, however, the rationale for having so many separate documents is explained in the 'Consultation on public benefit and registration'. The supporting guidance has been deliberately separated from the statutory guidance so that trustees can easily see what they are legally required to read and have the option of reading the additional supporting guidance.

The guidance can be read either online complete with hyperlinks or as a printed document. It is anticipated that the official guidance (following the consultation period) will be published in summer 2013.

³ NICVA's Advice Note 1: Charitable Status- July 2013.

⁴ NICVA briefing paper on Charity registration and the public benefit statutory guidance - March 2013

The Commission has helpfully outlined the difference in its use of language between 'must' and 'should'. 'Must' for a specific legal or regulatory requirement and 'should' for best practice. For those not familiar with the term 'trustee' it has included a definition of trustee as being:

'the people responsible under the organisation's governing document for controlling the management and administration of the organisation, regardless of what they are called'.

Guidance on registering as a charity

The Charities Act states that the Commission must keep a register of all charities in Northern Ireland.

It is a legal requirement for all charities currently operating in Northern Ireland, along with newly established charities, to register with the Commission; there are no exceptions or exemptions. The guidance outlines that an organisation must apply for registration as a charity if:

- it has exclusively charitable purposes
- its purposes are for the public benefit
- it is governed by the law of Northern Ireland
- it has control and direction over its governance and finances.

The guidance acknowledges that it will take a number of years before all existing charities will be assessed and appear on the register. When the Commission is ready it will call upon organisations to apply to register. For those organisations currently recognised as a charity for tax purposes, their details should already be on the 'deemed list' on the Commission's website. All other organisations (not currently recognised as charities), will go on the 'non-deemed' list. To go on the latter 'an expression of intent' form needs to be completed. The Commission will then randomly select organisations from different income bands on the deemed list, and for those on the non-deemed list, in order of application.

For those charities registered with a regulator in a different jurisdiction, for example, Scotland or England, they will be called forward last.

When organisations are called forward to register the Commission will issue them with unique passwords to apply online. It expects that organisations should register as soon as possible after they receive this password and no later than after three months.

'All applications for registration must be submitted online unless you have accessibility requirements.'

On the registration form you will be required to include details about your organisation's purposes and state how these are for the public benefit; give details on activities you carry out and who benefits from them, who is involved on the committee / board (all of the trustees), finance and funding and any other special circumstances.

For any organisation working with vulnerable people the Commission will seek evidence that the appropriate policies are in place. You will need to include your governing document and latest set of accounts with the online application so in preparation for registration it would be useful to have these scanned in to your

computer if an electronic version is not already available. The Commission states that once it has all the required information it should take no longer than three months to assess each application.

Publicly available information

Information that will be publicly available includes key information about the finance and funding of your organisation and the charity's address. The Commission will agree for the address and / or trustee names to be withheld in certain circumstances, for example, security or personal safety reasons. The Commission states that only information with a 'P' beside it will be made visible on the Register. This is useful as some people may feel a little apprehensive including their personal details, for example, date of birth. This transparency, the Commission believes, will help promote trust and confidence with the public.

Public benefit statutory guidance

The statutory guidance explains clearly how a charity is defined in Northern Ireland as one which falls under one or more of the list of 12 descriptions of purposes in the Act and is for the public benefit.

The 12 descriptions of charitable purposes are:

- the prevention or relief of poverty
- the advancement of education
- the advancement of religion
- the advancement of health or the saving of lives
- the advancement of citizenship or community development
- the advancement of the arts, culture, heritage or science
- the advancement of amateur sport
- the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
- the advancement of environmental protection or improvement
- the relief of those in need by reason of youth, age, ill health, disability, financial hardship or other disadvantage
- the advancement of animal welfare
- any other purposes includes any purpose recognised as charitable under existing charity law and any purposes which may reasonably be regarded as analogous to the listed purposes above, as well as those by virtue of section one of the Recreational Charities Act (1958).

An organisation will be considered charitable if it has one or more of the charitable purposes above and is for the benefit of the public. The Commission will consider each organisation on a case by case basis in determining whether or not it is fulfilling the public benefit requirement. The guidance explains the two elements of public benefit to explain in simple terms what it is:

1. **Benefit** - this is about what the benefits of your charity's purposes are. The benefits must have the following features:
 - be a result of the charity's purposes
 - relate specifically to the charity's purposes
 - outweigh any detriment or harm

- be clear.
2. **Public** - this is about who can benefit from your charity's purposes, usually known as the charity's beneficiaries. The benefits must:
- be to the general public or to a sufficient section of the public
 - not place undue or unfair restrictions on who can benefit
 - not provide a private benefit to individuals unless this benefit is incidental.

The 12 purposes replace the four charitable heads that have been used since 1891. The expansion of the definition of charity helps to reflect the wide range of charitable organisations and helps to modernise charity legislation.

The new additions should help to recognise and deem charitable the work of many Northern Ireland groups in the areas of peace and reconciliation and/or addressing sectarianism and racism.

The broad interpretation of the advancement of religion includes the belief in one god or more than one god and any analogous philosophical belief which does not have to involve belief in a god.

Purpose five which includes rural or urban regeneration and the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities, will make it easier for support networks and infrastructure bodies within the sector to achieve charitable status.

The advancement of amateur sport now includes games which promote health by involving mental skill or exertion.

The twelfth purpose provides for the on-going development and flexibility of charitable purpose over time however, it does not mean that all other purposes beneficial to the community, as some activities which undoubtedly benefit the community are not charitable.

The Commission has also produced additional supporting guidance on the 'public' and 'benefit' elements of the public benefit requirement to give further explanation for those who require it.

The statutory guidance highlights that all trustees are legally obliged to read the Commission's public benefit statutory guidance:

'Charity trustees must have regard to the Commission's public benefit statutory guidance when exercising any powers or duties to which the guidance is relevant.'

The statutory guidance is applicable not only when first applying to register but also on an on-going basis in running the charity and in reporting annually to the Commission on how the charity meets the public benefit requirement.

While it is not a legal requirement for trustees to read the accompanying supporting guidance, the Commission strongly recommends that they should do as it can aid understanding of the statutory guidance. It has produced supporting guidance documents on each of the 12 charitable purposes that give examples of activities

which would and would not be considered as being for the public benefit. Some may find these examples very useful as they may be able to identify with them.

As with the guidance on registration, the statutory guidance and supporting guidance on public benefit is produced in easy to understand language using examples to provide detailed guidance on the public benefit requirement. As the Commission states:

'It is our intention that anyone should be able to understand our public benefit guidance, without needing to seek legal advice.'

Community Associations in Northern Ireland can apply for charitable status at the same time as drawing up a constitution, as the constitution is a necessary first step in this process. Many community groups are charitable in law because of their objects and activities, as outlined in the group's constitution, and there are guidelines laid down as to what is and what is not a charity. Formal recognition of charitable status is decreed by Her Majesty's Revenue and Customs (HMRC).

There are advantages and disadvantages to being designated as a registered charity, and some of those are listed below.

Advantages of charitable status:

- A charitable association will be exempt from paying tax on most of the money it receives, provided the money is applied for charitable purposes only.
- A charitable association will have the right to apply for relief from paying rates. This is important if an association rents a house or other accommodation from the Housing Executive as a community base.
- A charitable association will be eligible to apply for funding to grant-making charitable trusts. Most charitable trusts will only make grants available to registered charities.
- Some companies will give discount to charities for goods and services.
- A charitable association will have easier access to charitable appeals on radio and television.

Disadvantages of charitable status:

- Charities must confine their objects and activities to those which are charitable by law.
- Charities cannot carry on permanent trading activities unless the trade is exercised in the course of carrying out a primary purpose of the charity or the work in connection with the trade is mainly carried out by beneficiaries of the charity
- Charities cannot have political objects, although a charity can properly seek to influence opinion on particular issues which are directly relevant to its objects and experience.
- Charity trustees cannot be paid for their services.

How to obtain formal recognition of Charitable Status

Step One

Draft a suitable governing document (Constitution, Trust Deed, Articles of Association), written in charitable form. Once your group has formally adopted the governing document, sign and date it, making sure to keep a minute of the meeting.

Step Two

The next step is to complete the HMRC Charities application form (cha1) giving details of the charities operations, how its activities benefit the public, bank account information and details about the committee members/ trustees. HMRC requires that all committee members/trustees must be 'fit and proper persons' and has issued special guidance on this, which it expects all charity trustees to read.

Step Three

Send your group's adopted governing document and completed cha1 form to HMRC:

Charity, Assets & Residence
HM Revenue and Customs

St John's House

Merton Road

Liverpool. L75 1BB

Please note that HMRC will no longer give an opinion on draft governing documents, they must be adopted.

Step Four

If HMRC accepts that your charities application and governing document is charitable it will formally confirm the charitable status of your group in a letter with a reference number enclosed. Alternatively HMRC may reply saying that your group is capable of becoming a charity, provided you alter your governing document in the way it suggests. If it does this and you are agreeable with the changes it suggests, rewrite your governing document to include the changes. Then get your group together and formalise the changed governing document. Keep a minute or record of the meeting adopting the new governing document and send it to HMRC.

If HMRC thinks that either your organisation's objects or activities are non-charitable, it will say that you are not eligible to become a charity.

Step Five

Once your organisation has formal recognition of being recognised as a charity for tax purposes, it is then permitted to benefit from the tax exemptions that charities are entitled to e.g. exemption from paying Income Tax and Capital Gains Tax.

The letter from HMRC confirming the tax exemption of your charity's income should be kept in a safe place as you may need it in the future if the charitable status of your group is queried. Thereafter, copies of your annual accounts should be available for inspection by HMRC as and when requested.

Step Six

Companies that want to change their charitable objects will need to get permission from the Charity Commission, please see Advice Note 5 for further information. You must notify HMRC on a special form Charities variations form (chv1) when there is a change to:

- The contact details for your charity
- The authorised official's details
- Your nominees' details, including bank account changes
- Your bank account details
- Any other significant details.

It is not necessary to notify them of every trustee change unless they are an authorised official.

This process will soon be changing.....

Northern Ireland will soon have a register of charities which will be established and maintained by the Charity Commission for Northern Ireland. It is envisaged that the Register will be established in Autumn 2013. The Commission will conduct an awareness raising campaign to communicate what will be expected of charities. Please note that even if you are recognised as a charity for tax purposes with HMRC, you will still have to register with the Charity Commission. You should check that the name of your charity appears on the deemed list on the Commission's website.

Contact Details

Charity Commission for Northern Ireland

257 Lough Road

Lurgan

Craigavon

BT66 6NQ

t: 028 3832 0220

e: admin@charitycommissionni.org.uk

w: www.charitycommissionni.org.uk

HMRC

Download the Charities application form (cha1) and the Charities variation form (chv1) and detailed guidance on the 'fit and proper persons test'

w: www.hmrc.gov.uk

Gift Aid Toolkit

w: www.hmrc.gov.uk/charities/gift-aidtoolkit.htm

Land and Property Services

For more detailed guidance on rates exemptions for charities, including partial and full exemption.

w: <http://www.dfpni.gov.uk/lps/search.lsim>

?qt=charities+exemptions&sr=0&nh=10&cs=iso-8859-1&sb=0&hs=0&sc=&oq=charities&ha=lps-cms&mt=1

Further Information

NICVA

Governance and Charity Advice Service

61 Duncairn Gardens

Belfast BT15 2GB

t: 028 9087 7777

f: 028 9087 7799

e: cas@nicva.org

For the latest developments in NI charity law reform. Specialist Governance and Charity section containing frequently asked questions and various advice notes.

w: www.nicva.org

Constitution of an Unincorporated Association⁵

Constitution

1 NAME

The name of the Association shall be _____ Community Association (hereinafter called “the Association”).

2 OBJECTS

The Association is established to:

- 2.1 relieve poverty, sickness and the aged and to promote the benefit of the inhabitants of _____ and the district area of Castlereagh and its environs (hereinafter described as “the area of benefit”) without distinction of age, gender, race, political, religious or other opinion, by associating the statutory authorities, voluntary organisations and inhabitants in a common effort to advance health, and to provide facilities in the interests of social welfare for recreation or other leisure-time occupation, with the object of improving the conditions of life for the said inhabitants;
- 2.2 In furtherance of the above objects, but not further or otherwise, the Association may:
 - 2.2.1 provide, maintain and equip or assist in the provision, maintenance and equipment of premises and facilities designed to carry out the objects of the Association;
 - 2.2.2 promote and carry out, or assist in promoting and carrying out research, surveys and investigations and publish the useful results thereof;
 - 2.2.3 obtain collect and receive money by way of grants, donations, bequests, legacies or other lawful method, provided that the Association may not engage in any form of permanent trading;
 - 2.2.4 purchase take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights and privileges necessary for the promotion of the above objects and construct, maintain and alter any buildings or erections which the Association may think necessary for the promotion of its objects;
 - 2.2.5 make any regulations for any property which may be so acquired;
 - 2.2.6 subject to any consents as may be required by law, sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the Association with a view to the furtherance of its objects;
 - 2.2.7 receive money on deposit or loan and borrow or raise money in such a manner as the Association shall think fit subject to such consents as may be required by law;

- 2.2.8 invest the monies of the Association not immediately required for the furtherance of the said objects in or upon such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) as may for the time being be imposed or required by law;
- 2.2.9 recruit and train volunteers with relevant skills to carry out the objects of the Association;
- 2.2.10 employ and pay any person or persons, not being a member of the Management Committee referred to below ("the Committee") to supervise, organise and carry on the work of the Association and make all reasonable and necessary provision for the payment of remuneration to employees;
- 2.2.11 promote and organise co-operation in the achievement of the above objects and to that end to work in association with local authorities and voluntary organisations engaged in the furtherance of the above objects in the area of benefit;
- 2.2.12 do all such other lawful things as may be necessary for the attainment of the above objects or any of them;

3 MEMBERSHIP

- 3.1 Membership of the Association shall be open to the following, irrespective of gender, political party, nationality, religion or political opinion:
 - 3.1.1 people aged sixteen years or over living within the area of benefit who subscribe to the objects of the Association and whose applications for membership are accepted by the Committee; such members shall be called Individual Members and shall be entitled to vote at meetings of the Association;
 - 3.1.2 organisations within the area of benefit, whether voluntary or statutory may upon application to and with the approval of the Committee be admitted as Affiliated Members and such approval shall not be unreasonably withheld;
 - 3.1.3 Well-wishers anywhere or persons who, in the opinion of the Committee have special knowledge or experience to offer to the Association; such members shall be called Associate Members and shall **have** the right to vote at meetings of the Association. The total number of Associate Members should not exceed 25% of the maximum committee places available.
- 3.2 Affiliated Members shall each be entitled to be represented at meetings of the Association by a duly authorised representative with power to vote on behalf of the Affiliated Member.
- 3.3 The Committee shall fix the rate of annual subscription appropriate to each category of membership, shall issue membership cards and shall have the right for good and sufficient reason to terminate the membership of any member provided that the member concerned shall have the right to be heard by the Association before a decision is made.

4 MANAGEMENT COMMITTEE

- 4.1 Except as provided otherwise in this constitution the policy and general management of the affairs of the Association shall be directed by the Committee which shall meet not less than __ times a year and shall consist of a maximum of __ and not less than __ members of the Association, elected at an Annual General Meeting. The total number of Associate Members should not exceed 25% of the maximum committee places available.
- 4.2 Nominations from full members of the Association for members of the Committee must be in writing and must be in the hands of the Honorary Secretary of the Association at least 7 days before the Annual General Meeting hereinafter mentioned.
- 4.3 Should the number of nominations exceed the number of vacancies, election shall be by secret ballot of the members of the Association present and voting at an Annual General Meeting.
- 4.4 Should the number of nomination be less than the number of vacancies, further oral nominations may with the approval of the Annual General Meeting be invited from members present and voting at the said Annual General Meeting.
- 4.5 The Committee elected at an Annual General Meeting shall have the power to co-opt further members, who shall be Individual Members [Associate Members] or representatives of Affiliated Members and who shall serve until the conclusion of the next following AGM PROVIDED THAT the number of co-opted members shall not exceed one-third of the total membership of the Committee. Co-opted members shall have the right to vote.
- 4.6 The Chairperson, Vice-Chairperson, Honorary Secretary and Honorary Treasurer, who shall be the Honorary Officers of the Association, shall be full Individual Members and shall be elected annually by and from the members of the committee at their first meeting following the Annual General Meeting.
- The Office of Chairperson shall not be held by any one person for more than three consecutive years and such person can therefore only be re-elected as Chair 2 times in immediate succession save in exceptional circumstances as prescribed by the Management Committee. But in any event such person is eligible for re-election as Chair after having stood down for at least 1 year.
- 4.7 Any member of the Committee who fails to attend **3** consecutive Committee meetings without reasonable excuse shall lose her/his place on the Committee which may be filled by co-option in accordance with Clause 4.5 above.
- 4.8 The Trustees (if appointed) shall be notified of and shall be entitled to attend all meetings of the Committee but without the power to vote.

5 FUNCTIONS OF THE COMMITTEE

- 5.1 The Committee may make such regulations as they consider appropriate for the efficient conduct of the business of the Committee and the Association.
- 5.2 The Committee may appoint such staff as they consider necessary on such terms and conditions as they may determine.
- 5.3 The Committee may appoint such sub-committees, advisory groups or working parties of their own members and other persons as they may from time to time decide necessary for the carrying out of their work and may determine their terms of reference, duration and composition. All such sub-committees shall make regular reports on their work to the Committee.
- 5.4 The proceedings of the Committee shall not be invalidated by any failure to elect or any defect in the election, appointment, co-options or qualifications of any member.

6 CHAIRING MEETINGS

All meetings of the Association or of the Committee or of any of its sub-committees shall be presided over by its Chairperson failing whom its Vice-Chairperson, if one has been appointed. If neither the Chairperson nor Vice-Chairperson are present, those present may elect one of their number to take the Chair. The Chairperson of any meeting shall have a second or casting vote.

7 FINANCE

- 7.1 All monies raised by or on behalf of the Association shall be applied to further the objects of the Association and for no other purpose PROVIDED THAT nothing herein contained shall prevent the payment of legitimate out-of-pocket expenses to members of the Association engaged upon the approved business of the Association.
- 7.2 The Honorary Treasurer shall keep proper accounts of the finances of the Association.
- 7.3 The financial year of the Association shall run from 1 April to 31 March.
- 7.4 The accounts shall be independently examined at least once a year by an independent person or organisation who shall be appointed at the Annual General Meeting
- 7.5 An independently examined statement of accounts for the last financial year shall be submitted by the Committee to Annual General Meeting.
- 7.6 A bank account shall be opened in the name of the Association with _____ Bank Ltd. or with such other bank as the Committee shall from time to time decide. The Committee shall authorise in writing the Honorary Treasurer and 2 members of the Committee to sign cheques on behalf of the Association. All cheques must be signed by not less than 2 of the 3 authorised signatories.

8 ASSOCIATION PROPERTY

- 8.1 The Association will authorise no less than 3 people to act on its behalf in relation to the holding of any monies or property belonging to the Association - this will normally be the Office Bearers. Where required for legal reasons, the Association may also appoint and may terminate the appointment of not less than 3 people to act as Trustees for the purpose of holding any monies or property belonging to the Association.

In the case of property/and or land purchase the title to all or any such real and/or personal property which may be required by or for the purposes of the Association shall be vested in the authorised individuals appointed Trustees who shall hold such property in Trust for the Association. The individual appointed Trustees shall act under instructions of the committee who shall, subject to the approval and consent of the Association as determined by a general meeting, have power to fill vacancies among the individuals appointed Trustees.

- 8.2 The Association is required to declare in authorising individuals to act on its behalf whether they are acting as Trustees.

9 ANNUAL GENERAL MEETING

- 9.1 The first Annual General Meeting of the Association shall be held not later than _____ and in each year thereafter an Annual General Meeting of the Association shall be held at such place and time (not being more than 15 months after the holding of the preceding Annual General Meeting) as the Committee shall determine.

- 9.2 At such Annual General Meeting the business shall include the following:

- 9.2.1 the election of members to serve on the Committee;
- 9.2.2 the appointment of an independent Financial Assessor;
- 9.2.3 the consideration of an Annual Report of the work done by or under the auspices of the Committee;
- 9.2.4 the consideration of the accounts;
- 9.2.5 the transaction of such other matters as may from time to time be considered necessary by the Committee.

10 SPECIAL GENERAL MEETINGS

The Committee may at any time at its discretion and shall upon a requisition signed by not less than _____ members having the power to vote and giving reasons for the request, call a Special General Meeting of the Association for the purpose of altering the constitution in accordance with Clause 12 hereof or of considering any matter which may be referred to them by the Committee or for any other purpose.

11 RULES OF PROCEDURE AT ALL MEETINGS

11.1 Voting

Subject to the provisions of Clause 12 hereof all questions arising at any meeting shall be decided by a simple majority of those present and entitled to vote thereat. In case of an equality of votes the Chairperson shall have a second or casting vote.

11.2 Minutes

Minutes shall be kept by the Committee and all other sub-committees and the appropriate Secretary shall enter therein a record of all proceedings and resolutions.

11.3 Quorum

The quorum at General Meetings of the Association shall be ___ and at meetings of the Committee shall be ___ or such other number as the Committee may from time to time determine.

11.4 Standing Orders

The Committee shall have power to adopt and issue Standing Orders and/or Rules for the Association. Such Standing Orders and/or Rules shall come into operation immediately PROVIDED ALWAYS THAT they shall be subject to review by the Association in General Meeting and shall not be inconsistent with this constitution.

12 ALTERATIONS TO THE CONSTITUTION

12.1 Any alterations to this Constitution shall receive the assent of not less than two-thirds of the members of the Association present and voting at the Annual General Meeting or a meeting specially called for the purpose PROVIDED THAT notice of any such alteration shall have been received by the Honorary Secretary in writing not less than 21 clear days before the meeting at which the alteration is to be brought forward.

12.2 At least 14 clear days' notice in writing of the meeting setting forth the terms of the alteration to be proposed shall be sent by the Honorary Secretary to each member of the Association PROVIDED FURTHER THAT no alteration shall be made which would cause the Association to cease to be a charity at law.

13 DISSOLUTION

13.1 If the Committee by a simple majority decide at any time that on the grounds of expense or otherwise it is necessary or advisable to dissolve the Association they shall call a meeting of all members of the Association who have the power to vote of which meeting not less than 21 days' notice (stating the terms of the Resolution to be proposed thereat) shall be given.

13.2 If such decision shall be confirmed by a simple majority of those present and voting at such meeting the Committee shall have power to dispose of any assets held by or in the name of the Association.

13.3 Any assets remaining after the satisfaction of any proper debts and liabilities shall be given or transferred to such other charitable institution or institutions having objects similar to the objects of the Association as the Committee may decide

14 INDEMNITY

14.1 The Association shall indemnify and keep indemnified every officer, member, volunteer and employee of the Association from and against all claims, demands, actions and proceedings (and all costs and expenses in connection therewith or arising therefrom) made or brought against the Association in connection with its activities, the actions of its officers, members, volunteers or employees, or in connection with its property and equipment but this indemnity shall not extend to liabilities arising from willful and individual fraud, wrongdoing or wrongful omission on the part of the officer, member, volunteer or employee sought to be made liable. The Treasurer shall affect a policy of insurance in respect of this indemnity.

15 SIGNED: _____ DATE:

(Chairperson)

SIGNED: _____ DATE:

(Secretary)