

Charitable Incorporated Organisations

Charitable Incorporated Organisations (CIOs) are a new and very flexible structure available for anyone wanting to set up a new charity. Also it will soon be possible for existing charities to convert to the CIO structure.

The CIO was enacted for England & Wales in the Charities Act 2006, but the final regulations have only recently gone through Parliament with the first CIO registrations from January 2013. However, Scottish CIOs (SCIOs) have been available since April 2011.

The idea of a CIO is very simple – a charity with corporate status and limited liability, but without any registration at Companies House.

Why CIOs?

It has long been a problem that charitable organisations cannot easily be established with corporate status and limited liability.

Until recently anyone wishing to establish a new charity in England & Wales would normally use one of the following legal forms:

- A charitable trust (a body of trustees governed by a trust deed)
- A charitable association (a membership body governed by a constitution with charitable aims)
- A charitable company (established as a company limited by guarantee under the Companies Act 2006 and *also* registered as a charity under the Charities Act 2011).

All of these have obvious difficulties.

- Charitable trusts and associations have *no corporate status* – so, for example, if they employ staff, the staff are technically employed by the trustees as individuals and there can be complications when trustees change. Any legal action against the charity is taken against the trustees personally – with *no protection of limited liability*.

More from DSC

Gareth Morgan is the author of a new DSC book [Charitable Incorporated Organisations: Key Guide](#) – due for publication in May 2013.



Priced at just £18.95 the book covers the concepts of CIOs, comparison with other legal forms of charity and social enterprise, constitutional requirements, accounting issues, and the process of converting existing charities to CIOs. It also covers the requirements for SCIOs. All the points are fully cross-referenced to the legislation. For anyone involved in setting up new charities, or helping existing charities restructure, this will be a vital resource.

Gareth Morgan is also available to run training seminars and events on CIOs – please contact Chrissie Wright at cwright@dsc.org.uk for more information.

Gareth G Morgan is Professor of Charity Studies at Sheffield Hallam University and adviser to many charities on constitutional, governance and accounting issues. He is also author of [The Charity Treasurer's Handbook](#) published by DSC.

- Charitable companies have the benefit of corporate status and limited liability – but only by requiring all the administration to comply with *both company law and charity law*. So, for example, board members have to be both company directors and charity trustees, with changes notified both to Companies House *and* to the Charity Commission. Accounts have to comply with the requirements of company law *and* the Charities SORP. This means, for example, that the provisions in the Charities Act 2011 allowing charities under £250,000 income to use the simpler receipts and payments basis are not available to charitable companies.

Charitable companies are fine for large charities, but the complexities create a huge additional burden for small and medium sized charities.

Charitable Incorporated Organisations (CIOs) are the perfect solution to these issues. A CIO is a corporate body with limited liability, registered and regulated solely by the Charity Commission.

The Legislation

CIOs were enacted in the Charities Act 2006 – though the 2006 Act was drafted in terms of numerous amendments to the Charities Act 1993 which made it very hard to follow. Since it was passed, all the main provisions of charity law for England and Wales have been consolidated in the Charities Act 2011. The primary legislation for CIOs is now in the Charities Act 2011.

Two sets of regulations, which at last allow CIOs in England and Wales to be registered with the Charity Commission, finally passed through Parliament in late 2012 (effective from 2 January 2013). The CIO General Regulations deal with constitutional issues and the CIO Insolvency & Dissolution Regulations address the issue of windups of CIOs.

Formation

CIOs are created purely by registration with the Charity Commission – if the registration is successful, the CIO is formed as a corporate body, and it is a registered charity for day one. There is no period ‘in limbo’ when an organisation has been formed but it is not yet certain if it will be accepted for charity registration. With a CIO, if the Charity Commission concludes that it wouldn’t be a charity they simply refuse the application, and it is never created in the first place.

Of course this means forming a CIO can’t be done overnight and there are other issues to consider, too – but for many charities the CIO structure will be very beneficial.

What the experts say

All charitable organisations need a governing document which sets out the purposes for which the charity is established and how it is governed.

The governing document of a CIO is simply called the “Constitution” of the CIO. But although the Charity Commission has published model CIO constitutions, anyone thinking of setting up a CIO needs to consider a wide range of legal requirements for CIO constitutions to understand how they work.

In particular, the role of *members* of a CIO is crucial – there are big differences between CIOs with a wide membership, and those where the members and trustees are the same people. But unlike charitable companies, the members of a CIO do *not* have to give a small guarantee towards wind-up costs.

Remember, too, that like any charity, a CIO must be established for public benefit: thinking how the CIO will carry out its charitable purposes for public benefit is key if registration to succeed.

- The above points are all taken from [Charitable Incorporated Organisations: Key Guide](#) by Gareth G Morgan

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