

HOW?

The different status' available to voluntary & community groups

With the changes proposed to charities and their status in 'Private Action, Public Benefit' (published by the Strategy Unit September 2002) this guide sets out to clarify what the **current situation** is with the different status' voluntary and community groups can choose from. The three types status covered here are:

- Unincorporated Organisations
- Incorporated Organisations or Companies limited by guarantee
- Charities

Charities trading for profit, social enterprises and trusts have not been included.

Unincorporated

- This means an organisation which is a group of members working under an organisations name.
- As it has no legal identity of its own it cannot enter into contracts or legal agreements, but its individual members can on the organisations behalf.
- The management committee are potentially legally liable for whatever problems the organisation faces.
- It does not require any approval to be set up and can be wound up easily.
- Unless it is applying for charity status (more details later) it has no need to register, pay fees or answer to any external body.

Incorporated & Company limited by guarantee

- The organisation itself has its own legal identity through registering with Companies House.
- It is not-for-profit, so any money made goes into the organisation and not to share holders.
- Members guarantee to pay between £1 and £5 if the organisation can not meet its financial obligations to 3rd parties.
- The governing body are called company

directors and have to run the organisation in line with its memorandum and articles of association (like a constitution).

- Company directors are personally liable in the following circumstances:
 - If the Organisation or individual acts dishonestly, fraudulently or criminally or are in breach of the law.
 - If an individual acts in breach of the charities trust (memorandum and articles).
 - Allow the organisation to go ahead when they can not meet financial commitments.
- There are more controls and bureaucracy through meeting obligations to Companies House.

Charity Status

- Both incorporated & unincorporated organisations can be charities.
 - To register with the charity commission an organisation must have an annual income over £1000 and have objectives which fully fall into one or more of the following:
 - Relief of poverty
 - Advancement of education
 - Advancement of religion
 - Other purposes beneficial to the community
 - Charities registered with the charity commission have to meet rules and obligations set by them.
 - There are some tax advantages
 - The charity trustees are ultimately responsible for the organisation
- An organisation can be both a charity and company limited by guarantee

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Type of Organisation	Governing Body	Governing Document	Legal identity
Unincorporated (Association of Members)	If there is a committee they are the governing body, if not the members are	Constitution	No legal identity
Incorporated or Companies limited by guarantee	Company Directors	Memorandum and Articles of Association	Legal Identity
Charities (Incorporated or unincorporated)	Charity Trustees	Constitution or Memorandum and Articles of Association	Depends on whether incorporated

Areas to weigh up when considering the status of an organisation:

- The risks – entering into contracts
- Setting up, maintaining and winding up costs
- Using a Charity registration number for fundraising
- Will the structure need to change in the future?
- How can the risk of personal liability be reduced?

The information for this guidance sheet has been taken from:

- Voluntary but not amateur (2000) Reason, Hayes and Forbes. LVSC
- Just about managing? (2000) Adirondack. LVSC

Both books are available to borrow from the High Peak CVS library.



Who are we?

High Peak CVS works to ensure that local voluntary and community groups can access as much support, advice and information as possible. We help groups in many different areas, such as funding, charity registration, practical services including printing, training and links to training and with legal issues. We have resources, including a meeting room, computers and OHP for use by groups.

To find out how we can help you, please contact us on 01663 735 350 or email hello@highpeakcvs.org.uk Visit us at www.highpeakcvs.org.uk