

Incorporating your almshouse charity

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Why incorporate?

Advantages:

- Protection for existing trustees
- Legal entity able to contract in its own name
- Continuity of existence
- Ownership of property
- Recruitment of new trustees
- More up to date constitution



Why incorporate?

Disadvantages:

- Time
- Cost
- Stress



What vehicle to use

- Two options:
 - Company Limited by Guarantee (CLG)
 - Charitable Incorporated Organisation (CIO)
- Structure (also two options)
 - Foundation
 - Association



Which vehicle to use

- Third option:
 - Incorporate the trustee body itself, rather than the charity
 - Then update the Scheme(s)



Company Limited by Guarantee (CLG)

- Previously the only option for incorporation
- Useful for quick formation (compared to a CIO)
- Governed by Companies Acts as well as the Charities Acts
- Features - Members and Trustees/Directors
- Double filing



Charitable Incorporated Organisation (CIO)

- Created specifically (and only) for charities
- Governed only by Charities Acts, rather than Companies Acts too
- Same benefits of limited liability
- Doesn't exist until registered at the Commission
- Features – Members and Trustees



Which to use?

- Usually it will be appropriate to form a CIO with a Foundation structure
- If incorporating the trustee only, use a CLG



What's the process?

- Agree on the vehicle to use (probably the Foundation CIO)
- Check the current Scheme(s) for:
 - Power to merge/transfer
 - Power to dissolve
 - Permanent Endowment/Designated Land
 - Any other unusual restrictions



What's the process?

- Consider and determine the assets and liabilities of the charity
 - Land (in whose name?)
 - Other assets
 - Employees
 - Bank accounts/balances
 - Insurances
 - Utility providers
 - Other parties to contract



What's the process?

- Drafting the CIO constitution
 - Following the Commission's template BUT
 - Incorporating the important elements of the Scheme(s) of the charity



What's the process?

- Will the trustees of the new CIO be the same or substantially the same as the trustees of the current charity?
- If so, a s105 order will probably be required from the Commission (and for the transfer of any designated land)



What's the process?

- Prepare and submit the application to the Commission
- Include any requests for consents or orders that are needed



What's the process?

- WAIT.....



What's the process?

- Deal with any queries raised by the Commission on the application



What's the process?

- WAIT SOME MORE.....



What's the process?

- Commission then confirms registration of the new CIO



What's the process?

- Prepare asset transfer agreement/vesting declaration
- TUPE consultations, if necessary
- Property transfers at Land Registry
- Novate contracts where necessary
- Sort out bank account



What's the process?

- Sign and date the transfers
- Wind up the old charity
- Register the transfer in the register of mergers





Questions?

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