

Community interest company

The new structure of **community interest company** (CIC) for social enterprises became available from 1 July 2005. A social enterprise is defined as a business with primarily social objectives, whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profits for shareholders and owners. Some of the main points about CICs are

- CICs register with Companies House as a company limited by guarantee or a company limited by shares, then apply for CIC status to the Regulator of Community Interest Companies. The CIC Regulator must be satisfied that the organisation meets a community interest test and will genuinely operate for the benefit of the public
- CICs are subject to the general framework of company law but have additional rules, such as producing an annual community interest company report with information relevant to CIC status
- A CIC must have "Community Interest Company" or C.I.C. as part of its name. "Limited" cannot be used in its name
- CICs do not have charitable status, even if their objects are wholly charitable, so they are not entitled to the tax reliefs and rate reliefs that charities get
- A charitable company based in England or Wales can convert to a CIC, but only if the Charity Commission agrees that it is in the charity's interest (this may not be very likely, given the loss of tax and rate reliefs). The Charity Commission and the CIC Regulator's memorandum of agreement, intended to ensure a "seamless approach" for charitable companies seeking to become CICs and vice versa, can be found at www.charitycommission.gov.uk/tcc/memocic.asp

CICs have an asset lock which prevents assets from being used for purposes that are not for the benefit of the community. This means, for example:

- Profits and other assets cannot be distributed to members of the CIC, except in very limited circumstances. This provides protection against demutualisation. (Under general company law there is nothing to stop the members of non-charitable companies, even those set up for community benefit, from passing a resolution to distribute the company's assets to themselves)
- A CIC can pay its directors, provided the payment is reasonable
- A CIC can borrow money, but there is a limit, set by the Regulator, on how much interest it can pay
- A CIC set up as a company limited by shares can issue shares. But there is a cap, set by the Regulator, on the level of dividends and on how much of the CIC's assets can be paid as dividends
- A CIC's assets can be given or sold at below market value only to another asset-locked body (such as a charity or another CIC). In other situations the assets can be sold only at market value

The CIC website at www.cicregulator.gov.uk contains guidance notes, model governing documents for a company limited by guarantee and company limited by shares, model community interest statements, and other information. The memorandum and articles are in different versions for a CIC with a large membership (a body of company members in addition to the company directors) and for a CIC with a small membership (usually where the company members are the same people as the directors). Information is also available by ringing 029 2034 6228.

The CIC structure is useful for organisations that are going to earn all or most of their income through trading (charging for goods or services) and do not have charitable objects, or organisations that are going to earn all or most of their income through trading and have charitable objects, but do not want the limitations of charitable status and are willing to forgo the tax and other advantages of charitable status. CIC status may also be appropriate for some charities' trading subsidiaries.

Although it is possible for charitable companies to convert to CICs if the Charity Commission agrees, specialist advice should be taken before even thinking about this, because of the loss of relief from corporation tax, capital gains tax, stamp duty and inheritance tax; loss of mandatory 80% rate relief; loss of ability to benefit from tax-effective giving; and loss of other advantages of charitable status.

NCVS Information Section does not offer advice on registering as a CIC nor does it prepare the necessary Memorandum and Articles of Association. However NCVS is happy to accept CICs into membership, through our normal membership application process and funding advice is available from the funding advice officers.

If you wish to seek advice about the appropriateness of registering as a CIC, the following lawyers are able to assist, but you should clarify their charges before agreeing to any work being done on your behalf. Good legal advice does not necessarily come cheap, but it could make the difference between success and failure of an organisation.

Ward Hadaway Solicitors

Fiona Wharton
Sandgate House, 102 Quayside
Newcastle upon Tyne, NE1 3DX
Phone: 0191 204 4000

Dickinson Dees Law Firm

Sean Nicholson
St Ann's Wharf, 112 Quayside
Newcastle upon Tyne, NE99 1SB
Phone: 0191 279 9000

You can also use the following company for help with registering the CIC

Incorporation Services Ltd www.incorporationservices.co.uk

Jim Lowe, 1 Saville Chambers, North Street, Newcastle upon Tyne, NE1 8DF
Phone: 0191 261 5545 info@incorporationservices.co.uk

Thanks to Sandy Adirondack for the information on CICs which has been taken from her *Legal update for voluntary organisations* which is available at www.sandy-a.co.uk

This information sheet was produced by Newcastle CVS

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