

# **CHARITABLE ENTITIES**

## **Structural Options Table**

16 May 2011

## Table of Contents

A. Structure & Purpose.....	3
B. Raising Funds .....	4
C. Tax Advantages .....	7
D. Wages, Service Fees & Expenses.....	8
E. Distributing Profits & Assets.....	9
F. Administrative Obligations.....	10
G. Personal Liability.....	11
H. Rules & Regulations .....	12
I. Converting between Structures.....	12
J. Further Information .....	18

This table is intended to operate as a high-level summary of the structural options currently available to charitable entities. It should not be relied upon as a substitute for detailed legal, tax and financial advice. The information contained herein was prepared as at 16 May 2011 and will not reflect any subsequent changes.

	Charitable Limited Company	Non-Charitable Limited Company	Charitable Incorporated Organisation	Community Interest Company	Charitable Unincorporated Association	Charitable Trust	Industrial and Provident Societies
<b>A. Structure &amp; Purpose</b>							
<b>1. Corporate and charitable status?</b>	<ul style="list-style-type: none"> <li>Registered charity</li> <li>Registered company</li> </ul> <p>This entity can be either a charitable company limited by shares or guarantee. The key difference is that for a company limited by shares, the liability of its members is limited to the amount (if any) of unpaid capital on the balance of their shares. Whereas, for a company limited by guarantee, its members' liability is limited to the respective amounts which they undertake to contribute to the assets of the company if it is wound up. Companies that do not immediately require capital, such as charities, are more often limited by guarantee, as this is usually the best type of company to use for charitable purposes.</p>	<ul style="list-style-type: none"> <li>Not a registered charity</li> <li>Registered company</li> </ul> <p>It can operate for charitable purposes without registration as a charitable company.</p> <p>As per a Charitable Limited Company, a Non-Charitable Ltd Company can be limited by shares or by guarantee, although a company limited by guarantee is most often used.</p>	<ul style="list-style-type: none"> <li>Registered charity</li> <li>Similar to a company, but no filing required at Companies House (no dual regulation)</li> </ul> <p><u>When introduced (which will hopefully be by the end of 2011), this will be a new form of corporate entity designed specifically for charities.</u></p>	<ul style="list-style-type: none"> <li>Not a registered charity</li> <li>Registered company</li> </ul> <p>This purpose of this entity is to provide benefits to a community, or a specific section of the community.</p> <p>As per a Charitable Limited Company, a Community Interest Company can be limited by shares or by guarantee.</p>	<ul style="list-style-type: none"> <li>Registered charity</li> <li>Not a registered company</li> </ul> <p>This is an organisation formed by way of constitutional document or rules determined by the members (there is no legally prescribed format) and is ordinarily more flexible than the trust deed regulating a Charitable Trust.</p>	<ul style="list-style-type: none"> <li>Registered charity</li> <li>Not a registered company</li> </ul> <p>This structure consists of trustees who legally hold any property for the benefit of the community for whose benefit it is set up pursuant to a deed of trust.</p>	<ul style="list-style-type: none"> <li>Can be a charity but exempt from registration requirement and so cannot currently be registered with the Charity Commission</li> <li>Body corporate registered by the Mutual Societies Registration Section of the FSA.</li> <li>Benefits from limited liability in same way as companies registered under CA 2006, but also counts as a company for tax purposes</li> </ul> <p>This entity can <u>either</u> be an association established for the purpose of providing services on a non-profit basis to its members (a bona fide "<b>co-operative</b>"), <u>or</u> for the benefit of the community.</p> <p>It should be open to anyone who meets the criteria for membership and can have investor members who do not otherwise use the society's services.</p>
<b>2. Typically used by?</b>	<p><u>Charities</u></p> <p>Primarily because of tax and fund raising advantages.</p>	<p><u>Non-charitable businesses</u></p> <p>This type of entity is usually intended to be profit-making.</p>	<p><u>Charities</u></p> <p>Primarily because of administrative, tax and fund raising advantages.</p>	<p><u>Charitable businesses</u></p> <p>This type of entity is typically used for the purposes of helping the community, but permits the distribution of profits to shareholders in certain circumstances.</p>	<p><u>Charities</u></p> <p>This type of entity is typically used by smaller charities and run by a wider membership base than a Charitable Trust. Often its governing rules will prescribe a set limit on the length of time trustees may hold office.</p>	<p><u>Charities</u></p> <p>This type of entity is typically used by a small or purely grant giving charity that wishes to be governed by trust deed.</p>	<p><u>Multiple uses</u></p> <p>This type of entity is used for a large variety of purposes, from working men's clubs to charitable societies, as its rules can be tailored to suit a variety of needs and forms at the discretion of its members.</p> <p>This type of entity must have at least three individual or corporate members or two Industrial and Provident Society members.</p>

	<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>3. How is it established?</b>	<p>After registering with Companies House as a Limited Company (see next column for procedure), the company must complete the Charity Commission Registration Application, which is available on the Commission's website (see 19 below).</p> <p>A registered charitable company has to have exclusively charitable "objects" set out in its constitution (i.e. Articles of Association).</p> <p>Model governing documents for charitable companies are available on the Charity Commission's website.</p>	<p>The constitutional documents of the company (its Articles of Association), Form IN01, the Memorandum of Association are sent to the Companies Registrar together with a fee.</p> <p>The Memorandum sets out that a company is to be incorporated and identifies the people who will initially hold its shares.</p> <p>The Articles are the "rulebook" of the company; setting out how it will be run.</p>	<p>This entity must be registered with the Charity Commission in line with rules that are yet to be formally announced.</p> <p>Unlike a Limited Company, it will not need to be registered with Companies House.</p> <p>The Charity Commission has published model constitutions (foundation and association) for CIOs which can be accessed on its website.</p>	<p>This type of entity will be registered in the same way as a non-charitable limited company.</p> <p>However, it will require additional documents to be sent to the Community Interest Companies Regulator, including a "Community Interest Statement" describing the social purpose of the company.</p>	<p>The individuals who wish to set up the association agree or "contract" to come together for a common charitable purpose. They can then apply to the Charity Commission for charitable status.</p> <p>The Charity Commission requires:</p> <p>(a) a completed online registration form and declaration; and</p> <p>(b) a copy of the company's constitutional documents.</p>	<p>Trust deeds, which are required to set up a trust, are complex and legal advice should be sought before setting up a trust.</p> <p>Charitable trusts should apply online to the Charity Commission for charitable status.</p> <p>The Charity Commission requires a copy of the legal trust deed and any related amending agreements.</p>	<p>At present, this type of entity is set up by registering with the FSA. However, when the Charities Act 2006 comes into full force, such entities will also have to register with the Charity Commission.</p> <p>Registration with the FSA can be completed online (see 19 below) using a Mutual Societies application form.</p> <p>To register as a society for the benefit of the community, special reasons must be given why the business cannot be run as a limited company, e.g. that this type of entity is more democratic.</p> <p>Independent 'sponsoring' bodies will often aid the establishment process by providing model rules most appropriate to the chosen structure.</p>

## B. Raising Funds

<b>4. Can it trade?</b>							
<b>(a) <u>Primary Purpose Trading</u></b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Trading that contributes directly to the objects of the charity.</b>							
<b>E.g. provision of education by a charitable school</b>							

	Charitable Limited Company	Non-Charitable Limited Company	Charitable Incorporated Organisation	Community Interest Company	Charitable Unincorporated Association	Charitable Trust	Industrial and Provident Societies
<p>(b) <b><u>Ancillary Trading</u></b></p> <p>Trading that contributes indirectly to the furtherance of the charity's objects.</p> <p>E.g. sale of food in a charitable school's canteen</p>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<p>(c) <b><u>Non-Primary Purpose Trading</u></b></p> <p>Trading that is neither "Primary Purpose" nor "Ancillary".</p> <p>E.g. the sale of 'high street' sports equipment by a charitable school</p>	<p>Yes / No</p> <p>If non-primary purpose trading poses a "significant risk" of turnover being insufficient to cover the costs of such trading, the entity cannot undertake it.</p> <p>In any other circumstance a registered charity may undertake non-primary purpose trading. However, this can result in a loss of all tax benefits to the entity (please see 8 below) and so is never advisable.</p>	<p>Yes</p> <p>Because a Non-Charitable Limited Company can engage in non-primary purpose trading without restriction, a hybrid structure is for a registered charity to incorporate a Non-Charitable Limited Company as a subsidiary (see 3 above) to undertake non-primary purpose trading in order to produce income for the charity. This income may be gifted to the parent charity, which can claim back the tax paid on the subsidiary's income as Gift Aid. For the charitable 'parent entity' to retain its tax advantages it may only fund the subsidiary if such funding is:</p> <p>(a) objectively "justifiable" as an investment of the charities assets; and</p> <p>(b) if made by way of loan, on commercial terms.</p>	<p>Yes / No</p> <p>As per a Charitable Limited Company.</p>	<p>Yes</p> <p>Because a Community Interest Company can engage in non-primary purpose trading without restriction, a hybrid structure is for a registered charity to incorporate a Community Interest Company as a subsidiary (see 3 above) to undertake such trading operations in order to produce income for the charity.</p> <p>The implications of such hybrid structure with respect to income and funding are as per a Non-Charitable Limited Company.</p>	<p>Yes / No</p> <p>Depends on the constitution, but if permitted, as per a Charitable Limited Company.</p>	<p>Yes / No</p> <p>Depends on the constitution, but if permitted, as per a Charitable Limited Company.</p>	<p>Yes / No</p> <p>In the event that the society is an association established for the benefit of the community the restrictions are the same as those applying to a Charitable Limited Company.</p> <p>If the society is a co-operative the society can undertake non-primary purpose trading without restriction.</p>

		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>5.</b>	<b>Can this entity undertake any activity that does not ultimately have a charitable purpose?</b>	No	Yes	No	Yes Provided that it takes into account the community interest for which it has been incorporated.	No	No	Yes
<b>6.</b>	<b>Can this entity operate with political objectives?</b>	No Campaigning or political activity is only permitted as a means of furthering or supporting its charitable purposes.  These cannot be the only activities the charity carries out.	Yes Non-charitable companies are bound by the laws relating to political campaigning with respect to peaceful assembly, etc. Otherwise they are free to campaign unless restricted by their constitutional documents.	No As per a Charitable Limited Company.	No The Regulator will review any expressed or evident political intentions or actions, and may request further information, refuse an application for registration or deregister the Community Interest Company.	No As per a Charitable Limited Company.	No As per a Charitable Limited Company.	Yes As per a Non-Charitable Limited Company.
<b>7.</b>	<b>Advantages for charitable fundraising?</b>	Yes It may state it is a charity when fundraising.	No It may not state it is a charity when raising funds.	Yes It may state it is a charity when fundraising.	No It may not state it is a charity when raising funds.	Yes It may state it is a charity when fundraising.	Yes It may state it is a charity when fundraising.	Yes/No If it is a charity, it may state that it is a charitable industrial and provident society when fundraising.

	Charitable Limited Company	Non-Charitable Limited Company	Charitable Incorporated Organisation	Community Interest Company	Charitable Unincorporated Association	Charitable Trust	Industrial and Provident Societies
<b>C. Tax Advantages</b>							
<b>8. Are there tax advantages?</b>	<p>Yes</p> <p>Tax advantages are granted to registered charities; this is a key reason for becoming registered.</p> <p>Corporation tax is not usually paid, lower business rates, special VAT treatment, stamp duty and stamp duty land tax exemptions.</p> <p>The tax benefits are set out in further detail at:</p> <p><a href="http://www.hmrc.gov.uk/charities/tax/basics.htm#3">http://www.hmrc.gov.uk/charities/tax/basics.htm#3</a></p> <p>Non-Primary Purpose trading (see 4(c) above) can result in a charity losing its tax benefits.</p> <p>Donations can receive gift aid or inheritance tax exemptions.</p>	<p>No</p> <p>However, if this entity is established as a subsidiary of a charitable entity, it may gift its profits before tax to the charitable parent.</p> <p>In order for the charitable 'parent entity' to retain its tax advantages it may only fund such subsidiary if such funding is:</p> <p>(a) objectively "justifiable" as an investment of the charities assets; and</p> <p>(b) if made by way of loan, on commercial terms.</p>	<p>Yes</p> <p>It is expected that tax advantages will be granted to this type of entity on the same basis as those given to registered charities.</p>	<p>No</p> <p>As per a Non-Charitable Limited Company.</p>	<p>Yes</p> <p>As per a Charitable Limited Company with respect to applicable taxes (except that it is exempt from capital gains and income tax rather than corporation tax).</p>	<p>Yes</p> <p>As per a Charitable Limited Company with respect to applicable taxes (except that it is exempt from capital gains and income tax rather than corporation tax).</p>	<p>Yes / No</p> <p>This type of entity is treated as a Non-Charitable Limited Company for tax purposes, with specific exceptions, such as in relation to shareholder distributions and loan interest. Further details are set out here:</p> <p><a href="http://www.hmrc.gov.uk/manuals/ctmanual/CTM40505.htm">http://www.hmrc.gov.uk/manuals/ctmanual/CTM40505.htm</a></p> <p>However, a society for the benefit of the community may register with the Inland Revenue as an exempt charity, and so benefit from tax advantages available to charities without registering with the Charity Commission.</p> <p>The tax benefits of being a registered charity are set out in further detail at:</p> <p><a href="http://www.hmrc.gov.uk/charities/tax/index.htm">http://www.hmrc.gov.uk/charities/tax/index.htm</a></p>

	<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>D. Wages, Service Fees &amp; Expenses</b>							
<b>9. Can directors and trustees be:</b>	Yes / No	Yes	Yes	Yes	Yes	Yes	Yes
<b>(a) paid service fees?</b>	Directors may only be paid a service fee where this is permitted by the constitution or the Charity Commission and is in the best interests of the charity and directors/trustees can substantiate a clear advantage to the charity by proceeding on this basis.	Remuneration may be set by the directors themselves and/or the shareholders.	It is expected the same rules will apply as apply to Charitable Limited Companies.	However, the service fees and expenses should be reasonable, transparent and in the interest of the relevant community.	As per a Charitable Limited Company.	As per a Charitable Limited Company.	
<b>(b) reimbursed for expenses?</b>	In cases of compensation for loss of earnings due to acting for the charity, if there is no express power for payment in the charity's constitutional documents then the permission of the Charity Commission must be sought. Any payments must be disclosed to the Commission.  Payment of expenses is permitted.  The charity must monitor and avoid conflicts of interest by directors.						



		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>10.</b>	<b>Can wages be paid to employees?</b>	<p>Yes</p> <p>There is no limit on payment of wages to employees other than that they be paid a fair minimum wage under general employment law.</p> <p>If a director/trustee is to become an employee, permission will be required from the Charity Commission. The charity must satisfy the Commission that the post is genuinely required, and does not unduly favour the director. If the salary and benefits will be below £50,000 per year, the company's directors (other than the person benefiting) can apply for Commission consent for this by submitting a standard Charity Commission declaration form. Amounts above £50,000 require more detailed justification.</p>	<p>Yes</p> <p>There is no limit on payment of wages to employees other than that they be paid a fair minimum wage under general employment law.</p> <p>See the DirectGov website for a list of the current national minimum wage rates.</p>	<p>Yes</p> <p>As per a Charitable Limited Company.</p>	<p>Yes</p> <p>As per a Non-Charitable Limited Company.</p>	<p>Yes</p> <p>As per a Charitable Limited Company.</p>	<p>Yes</p> <p>As per a Charitable Limited Company.</p>	<p>Yes</p> <p>As per a Non-Charitable Limited Company.</p>

### E. Distributing Profits & Assets

<b>11.</b>	<b>Can profits be paid to shareholders or trustees?</b>	<p>No</p> <p>Charities must use profits for charitable purposes.</p>	<p>Yes/No</p> <p>The Articles of Association will specify whether profit distributions to members/shareholders are possible. Given that the company will usually have non-profit purposes it is unlikely that this will be possible.</p>	<p>No</p> <p>Charities must use profits for charitable purposes.</p>	<p>Yes / No</p> <p>Profits may be paid if: (a) the entity is incorporated as a company limited <i>by shares</i> (not <i>by guarantee</i>); and (b) such distributions are announced in the entity's Community Interest Statement and are considered reasonable by its Regulator.</p>	<p>No</p> <p>Charities must use profits for charitable purposes.</p>	<p>No</p> <p>Charities must use profits for charitable purposes.</p>	<p>Yes / No</p> <p>A co-operative can distribute its profits to its shareholders. However, a society for the benefit of the community cannot distribute its profits.</p>
------------	---	--	--	--	--	--	--	--

		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>12.</b>	<b>Can assets be distributed to shareholders, trustees or charitable beneficiaries?</b>	<p>No</p> <p>The assets are locked for the benefit of the community. They cannot ordinarily be transferred for less than full market value.</p> <p>If the company is dissolved, it may only transfer its assets to another charity with similar objects.</p> <p>A charity is allowed to distribute assets to its beneficiaries if it is so empowered in its constitution and doing so will further the charity's objects.</p>	<p>Yes/No</p> <p>No distributions can be made unless the Articles of Association permit.</p>	<p>No</p> <p>As per a Charitable Limited Company.</p>	<p>No</p> <p>As per a Charitable Limited Company.</p>	<p>N/A</p> <p>An unincorporated association cannot own assets in its own name. Instead, the trustees of an unincorporated association hold the assets on the charitable trusts of the association. They can only distribute the assets as per a charitable limited company.</p>	<p>No</p> <p>The trustees of a charitable trust hold the assets in their own name but on charitable trusts. They can only distribute the assets as per a charitable limited company.</p>	<p>Yes / No</p> <p>The rules of the society may set out its position with respect to assets.</p> <p>It is possible for a society for the benefit of the community to put an asset lock in place preventing the distribution of assets to members.</p>

## F. Administrative Obligations

<b>13.</b>	<b>Primary administrative obligations?</b>	<ul style="list-style-type: none"> <li>● <u>One</u> Annual Accounts</li> <li>● <u>One</u> Annual Return</li> <li>● <u>One</u> Directors' Report</li> </ul> <p>These documents are filed with Companies House.</p> <p>The following must be filed at the Charity Commission:</p> <ul style="list-style-type: none"> <li>● <u>One</u> Annual Accounts</li> <li>● <u>One</u> Annual Return</li> <li>● <u>One</u> Trustees' Report</li> </ul> <p>Charity Register details must be kept up to date.</p> <p>Charity must comply with Company and Charity law</p>	<ul style="list-style-type: none"> <li>● <u>One</u> Annual Accounts</li> <li>● <u>One</u> Annual Return</li> <li>● <u>One</u> Directors' Report</li> </ul> <p>These documents are filed with Companies House.</p> <p>No filings with the Charity Commission are required.</p>	<p>Expected to be:</p> <ul style="list-style-type: none"> <li>● <u>One</u> Annual Accounts</li> <li>● <u>One</u> Annual Return</li> <li>● <u>One</u> Trustees' Report</li> </ul> <p>These documents are filed with the Charity Commission.</p> <p>Nothing needs to be filed with Companies House.</p> <p>Charity Register details must be kept up to date.</p>	<ul style="list-style-type: none"> <li>● <u>One</u> Annual Accounts</li> <li>● <u>One</u> Annual Return</li> <li>● <u>One</u> Annual Community Interest Report</li> </ul> <p>These documents are filed with Companies House, who will forward them to the Regulator of Community Interest Companies.</p>	<ul style="list-style-type: none"> <li>● <u>One</u> Annual Accounts</li> <li>● <u>One</u> Annual Return</li> <li>● <u>One</u> Trustees' Report</li> </ul> <p>These documents are filed with the Charity Commission</p> <p>If registered, Charity Register details must be kept up to date.</p>	<p>As per a Charitable Unincorporated Association.</p>	<ul style="list-style-type: none"> <li>● <u>One</u> Annual Accounts</li> <li>● <u>One</u> Annual Return</li> </ul> <p>These documents are filed with the FSA.</p> <p>There is a variable annual registration fee payable to the FSA based on the 'total asset value' specified in the annual return of the society. The respective thresholds and fee levels are set out at:</p> <p><a href="http://www.fsa.gov.uk/pages/Doing/Regulated/Fees/Periodic/Societies/index.shtml#returns">http://www.fsa.gov.uk/pages/Doing/Regulated/Fees/Periodic/Societies/index.shtml#returns</a></p>
------------	--	--	---	--	--	--	--	---

	<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>14. How can this entity amend its operating rules?</b>	<p>Changes to administrative provisions are permitted, but alterations to the rules regarding payment of trustees, distribution of assets or the charitable purposes of the company will require prior written consent from the Charity Commission.</p> <p>The charity must also bear in mind the Companies Act 2006 when changing its constitutional documents (i.e. the Articles of Association) with regard to voting, meetings and reporting requirements.</p>	Changes to the Articles of Association of the company can be effected by way of Special Resolution (the approval of a 75% majority of the shareholders/members of the company).	It is expected that the process for amending any rules will be less burdensome than for a Charitable Limited Company.	<p>As per a Non-Charitable Limited Company.</p> <p>However, if its objects are to change permission must also be sought from the Regulator of Community Interest Companies.</p>	The governing document will normally determine how the rules can be changed. Alterations to the rules regarding payment of trustees, distribution of assets or the charitable purposes of the company will require prior written consent from the Charity Commission.	The governing document will normally determine how the rules can be changed. Alterations to the rules regarding payment of trustees, distribution of assets or the charitable purposes of the company will require prior written consent from the Charity Commission.	This type of entity must apply to the FSA for any change to its rules of operation.

## G. Personal Liability

<b>15. Are shareholders or trustees liable for the liabilities and legal obligations of this entity?</b>	<p>Yes/No</p> <p>A key advantage of registering as a “limited” company is that the charity has a separate legal identity, and shareholders usually have no personal liability for the actions of the charity.</p> <p>Note: Where the company is a company limited by guarantee, the members will be liable to the extend of their guarantee – usually a small token amount.</p>	<p>Yes/No</p> <p>As per a Charitable Limited Company.</p>	<p>No</p> <p>As per a Charitable Limited Company.</p>	<p>No</p> <p>As per a Charitable Limited Company.</p> <p>If the Community Interest Company is a company limited by guarantee, the members will be liable to the extent of the guarantee.</p>	<p>Yes</p> <p>A key disadvantage is that an unincorporated association has no separate legal personality and the people running the charity (to the extent that they have impliedly or expressly contracted or are trustees) have unlimited liability for its actions.</p>	<p>Yes</p> <p>A key disadvantage is that a charitable trust has no separate legal personality and the trustees running the charity have potentially unlimited liability for its actions.</p>	<p>No</p> <p>As per a Charitable Limited Company.</p>
--	---	---	---	--	--	--	---

	Charitable Limited Company	Non-Charitable Limited Company	Charitable Incorporated Organisation	Community Interest Company	Charitable Unincorporated Association	Charitable Trust	Industrial and Provident Societies
<b>H. Rules &amp; Regulations</b>							
<b>16. Who is the primary regulator?</b>	Charity Commission	Companies House	Charity Commission	The Regulator of Community Interest Companies	Charity Commission	Charity Commission	Although a society must be registered with the FSA, the FSA will only be its Regulator if it conducts activities that would otherwise require FSA regulation (e.g. certain financial services).  Otherwise it is self-regulated.
<b>17. What is the primary governing legislation?</b>	<ul style="list-style-type: none"> <li>Charities Act 1993 and 2006</li> <li>Companies Act 2006</li> </ul>	<ul style="list-style-type: none"> <li>Companies Act 2006</li> </ul>	Charities Act 1993 and 2006	Companies Act 2006  Companies (Audit, Investigations and Community Enterprise) Act 2004	Charities Act 1993 and 2006	Charities Act 1993 and 2006	<ul style="list-style-type: none"> <li>Industrial and Provident Societies Act 1965 – 2003</li> <li>Friendly and Industrial and Provident Societies Act 1968</li> </ul> Financial Markets and Services Act 2000
<b>I. Converting between the Different Structures</b>							
<b>18. Is it possible to convert from a Charitable Limited Company into:</b>	N/A	No  A charitable limited company must dissolve and transfer all of its assets (no matter how small) to another charitable entity to be removed from the Charities Register.  A new company should be registered with Companies House, which will cost £14-18 for electronic registration (software/web filing) or £40 for paper filing. Same day incorporation is available at higher rates (£30 online, £100 on paper).	Yes  It is the intention of the Charity Commission that Charitable Limited Companies will be able to convert to a Charitable Incorporated Organisation once the legislation has been finalised.  It is expected that no conversion fee will be payable and that the process will be relatively simple.	Yes  The charity may need to write to the Charity Commission requesting permission to convert.  A response will usually be given within 15 working days.  It must then apply to Companies House for conversion using a CIC37, special resolution and Form NM01, which will usually take 14 to 16 working days, at a cost of £25.	No  To convert to this type of charity, the current charity must be dissolved, a new charity must be registered and all of its assets (no matter how small) must be transferred to the new entity.  The Commission's registration process usually takes 6 to 12 weeks.  No fee is payable.	No  As per a Charitable Unincorporated Association.	Yes / No  To register as a society for the benefit of the community, special reasons must be given why the business cannot be run as a limited company.  To convert, the charity must pass a Special Resolution (a 75% majority of the shareholders / members) approving the conversion. If the company uses a set of model rules, the statutory fee is £40 (plus sponsoring body fees of around £450). To use a bespoke set of rules is £950.

		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>19.</b>	<b>Is it possible to convert from a <u>Non-Charitable Limited Company</u> into:</b>	<p>Yes</p> <p>An application will need to be made to the Charities Commission (no fee applies) together with:</p> <p>(a) a completed application form;</p> <p>(b) a copy of the company's articles of association (the objects of the company must be charitable);</p> <p>(c) a trustee declaration; and</p> <p>(d) evidence of income.</p> <p>Charities with an annual income of less than £5,000 are not able to register with the Charity Commission.</p>	N/A	<p>Yes</p> <p>It is the intention of the Charity Commission that Non-Charitable Limited Companies will be able to convert to a Charitable Incorporated Organisation once the legislation has been finalised.</p> <p>No fee will be payable to the Charity Commission.</p>	<p>Yes</p> <p>It is necessary to:</p> <p>(a) pass a special resolution adopting a new memorandum and articles of association that comply with the rules for Community Interest Companies;</p> <p>(b) prepare Form CIC37;</p> <p>(c) prepare Form NM01 and</p> <p>(d) pay £25 to Companies House.</p>	<p>No</p> <p>To convert to this type of charity, the current company must be dissolved, a new charity must be registered and all of its assets (no matter how small) must be transferred to the new entity.</p> <p>The Charity Commission's registration process usually takes 6 to 12 weeks.</p> <p>No fee will be payable to the Commission.</p>	<p>No</p> <p>As per a Charitable Unincorporated Association.</p>	<p>Yes</p> <p>A company registered under the Companies Act 1985 (and by extension the Companies Act 2006) may, by special resolution, as established in Section 53 of the Industrial and Provident Societies Act 1965, convert into a registered society.</p> <p>The cost for converting varies. If the Industrial and Provident Society uses a set of model rules, the statutory fee is £40 (plus sponsoring body fees of around £450). To use a bespoke set of rules is £950.</p>
<b>20.</b>	<b>Is it possible to convert from a <u>Charitable Incorporated Organisation</u> into:</b>	<p>Yes</p> <p>The detailed rules for Charitable Incorporated Organisations have not yet been published.</p> <p>However, it is expected the Charity Commission will charge no fee for conversion.</p>	<p>No</p> <p>A Charitable Incorporated Organisation must dissolve and transfer all of its assets (no matter how small) to another charitable entity to be removed from the Charities Register.</p> <p>A new company should be registered with Companies House, which will cost £14-18 for electronic registration (software/web filing) or £40 for paper filing. Same day incorporation is available at higher rates (£30 online, £100 on paper).</p>	N/A	<p>Not yet known</p> <p>The detailed rules for Charitable Incorporated Organisations have not yet been published.</p> <p>However, it is expected the Charity Commission will charge no fee for conversion.</p> <p>It may have to apply to Companies House for conversion, which will take 14 to 16 working days, at a cost of £25.</p>	<p>Not yet known</p> <p>The detailed rules for Charitable Incorporated Organisations have not yet been published.</p> <p>However, it is expected the Charity Commission will charge no fee for conversion.</p>	<p>Not yet known</p> <p>The detailed rules for Charitable Incorporated Organisations have not yet been published.</p> <p>However, it is expected the Charity Commission will charge no fee for conversion.</p>	<p>Not yet known</p> <p>The detailed rules for Charitable Incorporated Organisations have not yet been published.</p> <p>However, the cost is likely to be as per a conversion from a Charitable Limited Company. If the company uses a set of model rules, the statutory fee is £40 (plus sponsoring body fees of around £450). To use a bespoke set of rules is £950.</p>

		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>21.</b>	<b>Is it possible to convert from a <u>Community Interest Company</u> into:</b>	<p>Yes</p> <p>A community interest company becoming a charity would no longer be subject to the community interest test; but would instead come under the regulation of the Charity Commission.</p> <p>A special resolution must be passed (which the Charity Commission must agree to) and the name of the company must be changed so that it no longer has the CIC designated endings.</p> <p>No fee will be payable to the Charity Commission for conversion.</p> <p>The total fee payable for conversion is £10 payable to Companies House.</p>	<p>No</p>	<p>Yes</p> <p>The exact mechanism that will be followed is not yet known.</p> <p>It is expected that no fee will be payable to the Charity Commission for conversion.</p> <p>The total fee payable for conversion is expected to be £10.</p>	<p>N/A</p>	<p>Yes</p> <p>The Community Interest Company must pass a special resolution to change its memorandum and articles of association.</p> <p>The Charities Commission will only accept a conversion where the Community Interest Company Regulator has, prior to the conversion, supplied confirmation that the resolution, passed, will render the company exclusively charitable and therefore eligible to be registered as a charity.</p> <p>No fee will be payable to the Charity Commission for conversion.</p> <p>The total fee payable for conversion is £10 payable to Companies House.</p>	<p>Yes</p> <p>The Community Interest Company Regulator will need to be satisfied that the proper procedures have been followed and that the necessary resolutions have been passed by the Community Interest Company.</p> <p>No fee will be payable to the Charity Commission for conversion.</p> <p>The total fee payable for conversion is £10 payable to Companies House.</p>	<p>No</p> <p>A special resolution determining to convert into an industrial and provident society which has a restriction on use of assets in accordance with the provisions of Reg. 4 of the Community Benefits Societies (Restrictions on Use of Assets) Regulations 2006 must be sent to the Registrar of Companies along with a copy of the Society rules and a statement by the FSA that the company will become a registered society.</p>

		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>22.</b>	<b>Is it possible to convert from a <u>Charitable Unincorporated Association</u> into:</b>	<p>Yes</p> <p>However it is not always possible to transfer the assets of a charitable unincorporated association to a charitable limited company. There may be a restriction in the governing rules of the association preventing this, or the association may have permanent endowment (land or capital that cannot be sold and/or used to provide an income). Problems may also arise if the existing charitable unincorporated association is entitled to income from charitable deeds of covenant, Gift Aid, or is the potential recipient of legacy income. Once converted, the right to receive these income streams might be lost since it may be that the only entity entitled to receive the income no longer exists.</p> <p>No fee will be payable to the Charity Commission for conversion.</p>	<p>No</p> <p>A charitable unincorporated association must dissolve and transfer all of its assets (no matter how small) to another charitable entity to be removed from the Charities Register.</p> <p>A new company should be registered with Companies House, which will cost £14-18 for electronic registration (software/web filing) or £40 for paper filing. Same day incorporation is available at higher rates (£30 online, £100 on paper).</p>	<p>Yes</p> <p>The procedure to follow will be similar to that of a charitable unincorporated association converting into a charitable limited company.</p> <p>The new Charitable Incorporated Organisation will need to be registered with the Charities Commission, and then the existing unincorporated charity will need to be wound up, in accordance with the provisions of its governing document. Once all the assets of the charitable unincorporated association are transferred to the CIO, the Charities Commission needs to be notified and the unincorporated association will be removed from the Central Register of Charities.</p> <p>No fee will be payable to the Charity Commission for conversion.</p>	<p>No</p> <p>Under the Companies (Audit, Investigations and Community Enterprise) Act 2004 a community interest company must be a limited company. Therefore, an unincorporated charity cannot convert to a community interest company.</p> <p>However, the community interest company could be appointed as a corporate trustee of the charitable assets belonging to the unincorporated charity and could then apply the charitable assets for the furtherance of the charity's objects.</p> <p>The total fee payable for incorporation of a Community Interest Company is £35 (£20 fee to Companies House for paper registration, plus £15 CIC Regulator's fee).</p>	N/A	<p>Yes / No</p> <p>It is not possible to directly convert.</p> <p>However a charitable unincorporated association may set up a charitable trust.</p> <p>The current unincorporated charitable association may also be dissolved and register a new charitable trust. All of its assets (no matter how small) must be transferred to the new entity. The Charity Commission's registration process usually takes 6 to 12 weeks.</p> <p>No fee will be payable to the Charity Commission.</p>	<p>No</p> <p>A charity must dissolve and transfer all of its assets (no matter how small) to another charitable entity to be removed from the Charities Register. It is not possible to transfer its assets to an Industrial and Provident Society.</p> <p>The cost of setting up a new Industrial and Provident Society varies. If a set of model rules are to be used, the statutory fee is £40 (plus sponsoring body fees of around £450). To use a bespoke set of rules is £950.</p>

		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>23.</b>	<b>Is it possible to convert from a <u>Charitable Trust</u> into:</b>	<p>Yes</p> <p>However it is not always possible to transfer the assets of a charitable trust to a charitable limited company. There may be a restriction in the governing rules of the charitable trust preventing this, or the charitable trust may have permanent endowment (land or capital that cannot be sold and/or used to provide an income). Problems may also arise if the existing charitable trust is entitled to income from charitable deeds of covenant, Gift Aid, or is the potential recipient of legacy income. Once converted, the right to receive these income streams might be lost since it may be that the only entity entitled to receive the income will no longer exist.</p> <p>No fee will be payable to the Charity Commission for conversion.</p>	<p>No</p> <p>It would be possible to dissolve the charitable trust; however it would not be possible to transfer the assets of the charitable trust to the non-charitable limited company.</p> <p>A new company should be registered with Companies House, which will cost £14-18 for electronic registration (software/web filing) or £40 for paper filing. Same day incorporation is available at higher rates (£30 online, £100 on paper).</p>	<p>Yes</p> <p>It is expected that it will be possible. However the mechanism has not yet been finalised.</p> <p>It is expected that no fee will be payable to the Charity Commission for conversion.</p>	<p>No</p> <p>Under the Companies (Audit, Investigations and Community Enterprise) Act 2004 a community interest company must be a limited company. Therefore, a charitable trust cannot convert into a community interest company.</p> <p>However, the community interest company could be appointed as a corporate trustee of the charitable assets belonging to the charitable trust and could then apply the charitable assets for the furtherance of the charity's objects.</p> <p>The total fee payable for incorporation of a Community Interest Company is £35.</p>	<p>Yes / No</p> <p>It would not be possible to directly convert; however it would be possible to dissolve the charitable trust and set up a new charitable unincorporated association.</p> <p>It may be possible to transfer the assets of the charitable trust to the charitable unincorporated association; unless the rules of the charitable trust prevent this or there is permanent endowment (land or capital that cannot be sold and/or used to provide an income). Problems may also arise if the existing charitable trust is entitled to income from covenants, Gift Aid, or is the potential recipient of legacy income. Once converted, the right to receive these incomes might be lost.</p> <p>No fee will be payable to the Charity Commission.</p>	<p>N/A</p>	<p>No</p> <p>It would be possible to dissolve the charitable trust. However it will probably not be possible to transfer the assets of the charitable trust to the Industrial and Provident Society.</p> <p>The cost of setting up a new Industrial and Provident Society varies. If a set of model rules are to be used, the statutory fee is £40 (plus sponsoring body fees of around £450). To use a bespoke set of rules is £950.</p>



		<b>Charitable Limited Company</b>	<b>Non-Charitable Limited Company</b>	<b>Charitable Incorporated Organisation</b>	<b>Community Interest Company</b>	<b>Charitable Unincorporated Association</b>	<b>Charitable Trust</b>	<b>Industrial and Provident Societies</b>
<b>24.</b>	<b>Is it possible to convert from a <u>Industrial and Provident Society</u> into:</b>	<p>Yes</p> <p>The Industrial and Provident Society must follow the procedure to convert into a Non-Charitable Limited Company. See the paragraph immediately to the right of this column for further details.</p> <p>It will then be possible to apply to become a Charitable Limited Company.</p> <p>No fee will be payable to the Charity Commission or FSA for conversion.</p>	<p>Yes</p> <p>A registered Industrial and Provident Society may decide to convert itself into a company. Section 52 of the Industrial and Provident Societies Act 1965 states that this must be agreed within the society by the passing of a special resolution.</p> <p>As a result of amendments in the Industrial and Provident Societies Act 2002, a larger majority of votes is needed to approve a special resolution to convert an industrial and provident society into a company than to approve other special resolutions.</p> <p>There is no fee payable to the FSA for conversion.</p>	<p>Yes</p> <p>It will be possible; however the mechanism has not yet been published.</p> <p>Is it expected that no fee will be payable to the Charity Commission or the FSA for conversion.</p>	<p>Yes</p> <p>The Industrial and Provident must first apply to the FSA for registration of a special resolution for conversion of an IPS into a company. It must then convert to a new company and finally convert into a Community Interest Company.</p> <p>To convert to a new company, it must pass a special resolution which it must deliver to the Registrar of Companies together with the new company's Articles of Association, the Memorandum of Association, Form IN01 and Form CIC 36.</p> <p>The Registrar of Companies will then pass these documents to the Regulator of Community Interest Companies to consider whether the society is eligible to form as a Community Interest Company (CIC). If eligible and if the documents are acceptable to the Registrar of Companies the documents will be placed on the public record and a certificate of incorporation will be issued.</p> <p>A fee of £35 will be payable to Companies House.</p>	<p>Yes / No</p> <p>Not directly; although it will be possible to dissolve the industrial and provident society and transfer its assets to a charitable unincorporated association.</p> <p>The procedure is complicated and specialist advice should be sought.</p> <p>The Industrial and Provident Society should be solvent and have assets available for distribution.</p> <p>At least three-quarters of the members of the Industrial and Provident Society should sign the instrument of dissolution.</p> <p>The remaining assets can only be transferred in accordance with the registered rules.</p> <p>The Industrial and Provident Society should be up to date in submitting its annual returns and should submit any outstanding returns before, or at the same time as, applying to register an instrument of dissolution.</p> <p>No fee will be payable to the Charity Commission for start-up or the FSA for dissolution.</p>	<p>Yes / No</p> <p>Not directly; although it will be possible to dissolve the industrial and provident society and transfer its assets to a charitable trust.</p> <p>The Industrial and Provident Society should be solvent and have assets available for distribution.</p> <p>At least three-quarters of the members of the Industrial and Provident Society should sign the instrument of dissolution.</p> <p>The remaining assets can only be transferred in accordance with the registered rules.</p> <p>The Industrial and Provident Society should be up to date in submitting its annual returns and should submit any outstanding returns before, or at the same time as, applying to register an instrument of dissolution.</p> <p>No fee will be payable to the Charity Commission for start-up or the FSA for dissolution.</p>	N/A

	Charitable Limited Company	Non-Charitable Limited Company	Charitable Incorporated Organisation	Community Interest Company	Charitable Unincorporated Association	Charitable Trust	Industrial and Provident Societies
--	----------------------------	--------------------------------	--------------------------------------	----------------------------	---------------------------------------	------------------	------------------------------------

**J. Further Information**

25.	Where can I obtain further information?	<a href="http://www.charity-commission.gov.uk/">http://www.charity-commission.gov.uk/</a>	<a href="http://www.companieshouse.gov.uk">www.companieshouse.gov.uk</a>	<a href="http://www.charity-commission.gov.uk/">http://www.charity-commission.gov.uk/</a>	<a href="http://www.cicregulator.gov.uk">http://www.cicregulator.gov.uk</a>	<a href="http://www.charity-commission.gov.uk/">http://www.charity-commission.gov.uk/</a>	<a href="http://www.charity-commission.gov.uk/">http://www.charity-commission.gov.uk/</a>	<ul style="list-style-type: none"> <li>• <a href="http://www.fsa.gov.uk/Pages/Doing/small_firms/MSR/Societies/index.shtml">http://www.fsa.gov.uk/Pages/Doing/small_firms/MSR/Societies/index.shtml</a></li> </ul>
-----	---	---	--	---	---	---	---	---