



Governance Support Package

Produced in partnership
by SCVO and NIDOS



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GOVERNANCE

Governance refers to the systems and processes concerned with ensuring the overall direction, effectiveness, supervision and accountability of an organisation. Good governance ensures that your organisation:

- works to advance its aims and objectives as set out in your constitution
- is well run and efficient, and complies with law and regulation
- is accountable, responsible and effective
- ensures that the reputation and integrity of the third sector is maintained.

The trustee board takes overall responsibility for the work of their organisation and for good governance, but also relies on many other people to govern well – members, staff, volunteers, advisors, stakeholders. The values of your organisation should connect all those involved, so you can work towards shared goals.

Trustees should ensure the governance of their organisation is accountable, transparent and open, and the values of the organisation are actively [communicated](#).

Once you have governance structures in place you can use the NIDOS [Effectiveness Toolkit](#). This is a self-assessment process that allows your organisation to benchmark itself and continuously improve and develop. The toolkit covers areas such as partnership working and fundraising as well as governance.

In this guide we will use the term 'board' (which also encompasses management committee, council, executive committee, management board, etc.) and trustees (committee members, directors, etc.).

Getting Started - mission, vision, making a plan

When you set up a voluntary organisation you should be clear about the needs which it will meet and who it will benefit. This will help you get support and be clear about what your focus should be. Usually an organisation will develop:

VISION: Your view of what your organisation is for.

MISSION: This spells out what you intend to do to turn that vision into reality.

VALUES: Shared beliefs about the way you should operate.

These should link together and be your starting place for developing a detailed plan for how your organisation will operate. Work with your steering group (the initial group of people who set up the organisation and set its direction) and other volunteers and share out the tasks.

Good governance will ensure your organisation will periodically revisit your vision, mission and values every 2 – 3 years to ensure that they are still relevant and work well.

Example - [Save the Children](#)

Vision

A world in which every child attains the right to survival, protection, development and participation.

Mission

To inspire breakthroughs in the way the world treats children and to achieve immediate and lasting change in their lives.

Values

Accountability - We take personal responsibility for using our resources efficiently, achieving measurable results, and being accountable to supporters, partners and, most of all, children.

Ambition - We are demanding of ourselves and our colleagues, set high goals and are committed to improving the quality of everything we do for children.

Collaboration - We respect and value each other, thrive on our diversity, and work with partners to leverage our global strength in making a difference for children.

Creativity - We are open to new ideas, embrace change, and take disciplined risks to develop sustainable solutions for and with children.

Integrity - We aspire to live to the highest standards of personal honesty and behaviour; we never compromise our reputation and always act in the best interests of children.

Choose Your Legal Structure - incorporation, charitable status, what are your options?

You are not required by law to adopt a legal structure unless you aim to be registered as a charity, but there are benefits to any organisation in having a formal structure, particularly if and when things do not go to plan. It provides a framework and gives your group an identity, continuity, credibility, and a means of establishing common objectives. It can also be very helpful if and when things do not go to plan

If you decide to adopt a formal structure you will need to make fundamental decisions about incorporation, charitable status and membership.

UNINCORPORATED – INCORPORATED: WHAT’S THE DIFFERENCE?

The type of legal structure which is right for your organisation will depend on what you plan to do and the level of risk involved in your activities. If you intend to employ staff, buy or rent premises, raise large scale finance, or enter into contracts, then you should think about incorporation. It’s important even at an early stage to think about how your organisation might develop.

Unincorporated	Incorporated
Unlimited personal liability (joint and several)	Limited personal liability (usually £1)
Property is owned by individual people	Property is owned by the organisation
Contracts are in the name of individuals	Contracts are in the name of the organisation
No statutory framework - no governing law (unless a charity)	Clear statutory framework (Companies face penalties for failing to comply and fines for late returns)
No real accountability (unless a charity)	Clear accountability to members/shareholders and a regulatory body
No automatic set up/running costs	Set up and ongoing costs, for a Company

An unincorporated organisation is a collection of individuals with no separate legal identity. If an unincorporated organisation wants to own property, employ staff, etc., it must rely on individuals to do so on its behalf. This increases the risk of personal liability for those involved in running the organisation.

If charity trustees and/or activities are located entirely abroad then the [Office of the Scottish Charity Regulator](#) (OSCR) will ask for more information about monitoring of funds and activities to make sure they relate to Scottish charitable purposes.

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An incorporated organisation has a legal identity of its own. This means that it can own property, enter into contracts, and employ people in its own name. Incorporation means the liability of the organisation to third parties is limited to the total amount which is guaranteed to be given by the members – usually this is £1 and is detailed in the constitution. This gives protection to those running the organisation and its members in most cases. However, it also means that trustees need to take their responsibilities very seriously as they are legally binding. There are also obligatory reporting duties to their official regulatory body, e.g. for Scottish Charitable Incorporated Organisations to OSCR, for companies to Companies House.

However, it's important to remember that personal liability may still occur if trustees are reckless, negligent, act illegally, or act out with their powers in the management and control of the organisation.

It's important to get your legal structure right both for now and the future, and whether or not to incorporate is an important question to consider when looking at your choice of structure. The wrong structure can get in the way of doing your work effectively, and may increase the risk of personal liability.

If you are thinking that your organisation should be incorporated you should consider the following legal structures:

[Company Limited By Guarantee](#)

A clear legal entity separate from the people involved in it, but it must comply with UK Company Law.

[Scottish Charitable Incorporated Organisation](#)

The SCIO has been purpose built for the charity sector in Scotland and provides limited liability.

CHARITABLE STATUS

The legal structure of your organisation is quite separate from its charitable status.

A charity is a voluntary organisation which has been set up only for charitable purposes and to provide public benefit. Only around half of Scotland's voluntary organisations are charities. If you are thinking of registering as a charity, you should consider the advantages and disadvantages associated with charitable status and look carefully at the particular circumstances of your organisation and decide whether it's the right option for you.

Advantages

- Tax relief on surpluses and donations
- Access to funding only available to charities
- Rates relief for premises
- Special VAT concessions

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- Public perception

Disadvantages

- Restrictions on spending
- Cannot engage in party political activities
- Must adhere to charity law
- Trustees have specific duties under charity law

To be a registered charity in Scotland, an organisation must register with the [Office of the Scottish Charity Regulator \(OSCR\)](#) having met the charity test. To meet the charity test, an organisation must have only charitable purposes and must provide public benefit. In addition it must not allow its property to be used for non-charitable purposes; must not allow Ministers to direct, or otherwise control, its activities; and must not be a political party, and not have as its purposes the advancement of a political party.

All charities must submit an annual return and accounts to OSCR every year and seek their permission to make certain changes.

If you are considering registering as a charity, the following are the main legal forms that Scottish charities can take:

[Scottish Charitable Incorporated Organisation \(SCIO\)](#)

The SCIO has been purpose built for the charity sector in Scotland and provides limited liability.

[Voluntary or Unincorporated Association](#)

The simplest and least bureaucratic form of legal structure, with low set up costs.

[Company Limited by Guarantee](#)

A clear legal entity separate from the people involved in it, but it must comply with UK Company Law.

[Trust](#)

Best suited to small groups of people who want to manage money or property.

[Other structures](#) include statutory and royal charter corporations, Industrial and Provident Societies, educational endowments, and Community Interest Companies (CICs).

OTHER OPTIONS

You may choose to set up an organisation that does not make any profit, but decide not to register it as a Scottish charity. All of the types of organisation below can be not for profit, without registering as a charity.

[Voluntary or Unincorporated Association](#)

[Company Limited by Guarantee](#)

[Trust](#)

[Community Interest Company](#)

[Co-operative](#)

[Industrial and Provident Society \(IPS\)](#)

[Friendly Society](#)

See our [table of legal structures in Appendix 3](#) for more detail on each of these structures.

If your organisation is planning to officially register itself and become a legal entity in another country then you will need to confer and adhere to national requirements.

Constitutions, board structures, membership

Once you have decided on the right legal structure for your organisation, the formal business of drafting your constitution, deciding on membership, and appointing trustees will follow.

CONSTITUTIONS

A constitution is a written set of rules or agreement which sets out the purpose of your organisation and how it will be run. SCVO have developed a number of models which should enable you to draft, adjust and finalise your constitution, and form your voluntary organisation. For each type of legal structure commonly found in the voluntary sector in Scotland [you can access a model constitution](#), plus detailed clause-by-clause notes and optional additional clauses.

But while it may be tempting to simply take the model and fill in the blanks relating to your organisation, DON'T! Make sure you draft a document that works for your organisation, both now and in the future. THINK IT THROUGH! It's important that everyone in the steering group should think carefully about the features in the constitution so that it is a real reflection of what you want to achieve.

If your trustees will be unable to physically attend board meetings, make sure your constitution includes clauses to allow meetings and voting to take place via other means e.g. by telephone conference or Skype.

There will be some organisations which demand specialised provisions in their constitution and there are some circumstances where legal advice will be helpful.

Note that there are only a limited number of solicitors in Scotland who deal regularly with the drafting of legal structures for the charitable/voluntary sector. [The Law Society of Scotland](#) has a list of legal firms with specialist charitable experience.

Further help may also be available from your local [Third Sector Interface](#). If you are a member of NIDOS or SCVO with an income of less than £500,000, then you can get legal advice and help with drafting your constitution from the [SCVO Legal Advice Service](#).

BOARD STRUCTURES

A board may not always be called a board: other names include a management committee, council, executive committee, board of trustees, board of governors, or some other term. The name of the governing body is usually determined in its governing document.

The board consists of trustees who work together and take ultimate responsibility for running the organisation – for its property, finances, and the employment of any staff or volunteers. Some organisations may not use the term trustee but may use another term such as committee member or director: what matters is the role, not the title.

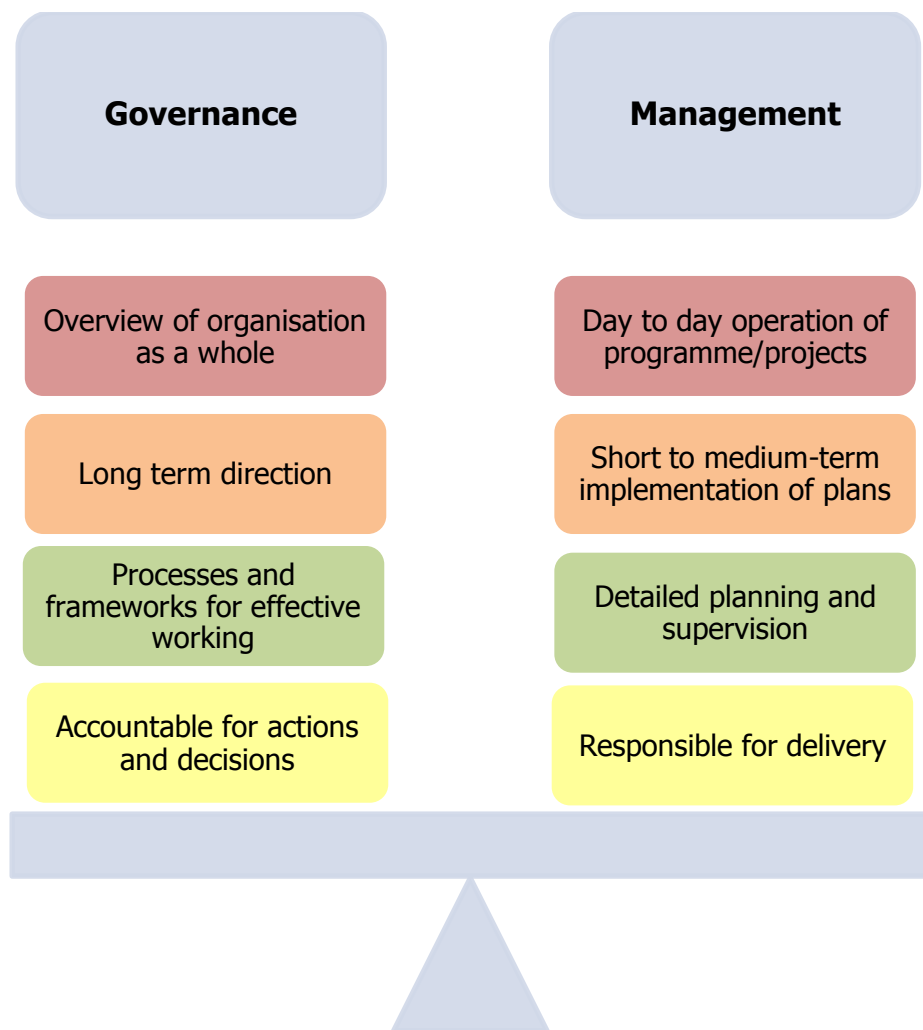
The role of the board is leadership – to control and supervise the organisation's activities. Leadership means setting the vision for the organisation, and running it in a way that will achieve these aims. It is important for trustees to understand that they are in charge of their organisation, and they can be personally responsible for what it does, depending on the organisation's legal structure. Ultimate responsibility and ultimate authority lies collectively with them. They can delegate some of their authority, e.g. to staff, but they can never delegate their responsibility.

The board should make sure that:

- the organisation is clear in its overall purpose, as set out in its governing document, and in its direction and strategy
- all decisions are taken in line with the aims and objectives of the organisation as laid out in its constitution
- finances and resources are safeguarded and used effectively and efficiently for those whom the organisation exists
- the organisation fulfils all its legal and regulatory requirements
- the organisation is effectively managed, operates efficiently, and works within its policies and budgets, and relevant good practice guidance and the law
- the organisation is accountable financially and to its stakeholders and regulatory authorities
- there is a proper procedure for the recruitment and supervision of staff
- the board itself is representative and functions effectively

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Most of the board's work takes place at board meetings where trustees act collectively. Boards often concentrate on big issues at meetings, making key decisions, monitoring finance and activities, and then delegating day to day work to others – staff, volunteers, or individual trustees. In small organisations, boards are likely to be involved in day to day issues as well as in governance issues. In these organisations, trustees should still distinguish between when they are working on day to day issues and when they are working on governance issues. Governance is different to management which is about implementing the strategies agreed by the board.



For organisations without paid staff you could try:

- Dividing the governing body's meeting agenda into two sections, so there is always a slot for issues that concern progress towards outcomes, overall accountability and financial sustainability, or
- Set up a subcommittee of the governing body to focus on work programmes, delivery or operational matters. This could be open to volunteers who do not currently serve on the governing body.

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Individual trustees act and make decisions as part of the collective board. They are bound by any collective decision. They can only act on their own if they have been authorised to do so by the board.

MEMBERSHIP

Membership organisations are probably the most common type of organisation in the voluntary sector. They have a two tier structure where the board is elected by and accountable to a wider body of ordinary members.

Membership means...
Your organisation is democratic
Your board is accountable to a wider audience
You will be more transparent
You will understand your users and beneficiaries better
Your influence will be greater
You have a source of trustees/volunteers/fundraisers/advocates
You have a source of income (if you have membership fees)

Members attend the Annual General Meeting (AGM) and have the power to take certain fundamental decisions, such as making changes to the constitutions and dissolving the organisation. They also elect board members and thus have ultimate control, so it is important to carefully consider who can be eligible for membership of your organisation. Here are some of the things you need to think about:

- Who are you going to invite to be members of your organisation?
- Are you going to charge people to be a member, and if so, how much?
- What does membership entitle them to?
- How will you appoint new members, and how long will membership last, e.g. a financial year?
- How will you remove members from your organisation if you need to?
- Can employees of the organisation also be members, and can they serve on the management committee? If they can, what voting rights will they have? How will you address any potential conflicts of interest?
- Should bodies, as distinct from individuals, be entitled to be members?
- Would you allow young people under 16 to become members?

The possible legal structures for a membership organisation would be:

[Voluntary or Unincorporated Association](#)

[Company Limited by Guarantee](#)

[Scottish Charitable Incorporated Organisation \(SCIO\)](#)

[Industrial and Provident Society \(IPS\)](#)

With certain legal structures, members have more responsibilities than others (e.g. SCIO). This should be taken into account when deciding what type of legal structure would be best for the organisation.

If you decide not to be a membership organisation, then the possible legal structures would be:

[A single tier SCIO](#)

[Trust](#)

Trustees - roles and responsibilities, recruitment and induction, conflicts of interest

Although organisations and boards differ greatly in size and structure, all trustees share some fundamental roles and responsibilities, which you must carry out with the other members of the board, according to your constitution and relevant legislation.

In fulfilling its roles and responsibilities, the board may work with its staff and volunteers, and outside bodies, but ultimately it is the trustees that are in management and control of the organisation.

Each member of the board has joint responsibility for the management and control of a voluntary organisation, though certain board members can be given specific roles:

ROLES AND RESPONSIBILITIES

Chairperson or Convenor

It is important that all trustees play their part in the good governance of their organisation. The Chairperson or Convenor has a leadership role to the board and is usually delegated the line-management of the chief executive on behalf of the board. Key delegated duties include:

- Ensuring meetings are run competently and everyone is able to participate fully so that discussion and decision-making is democratic
- Holding the casting vote in the event of a split decision
- Preparing agenda for the meeting, in consultation with staff and other trustees
- Chairing meetings and ensuring that annual general meetings and extraordinary general meetings are carried out according to the constitution

Treasurer

It is important that all trustees play their part in financial decisions and financial monitoring. Most boards will have at least one trustee who is strong financially and

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they can be appointed treasurer. They will be responsible for overseeing the finances, even if the organisation has paid staff who deal with much of the day-to-day financial business. Some of the tasks can include:

- Advising the committee on financial matters
- Controlling and accounting for the organisation's finances, overseeing bookkeeping
- Being a counter signatory to any major banking transaction
- Issuing receipts for all cash received and keeping records of cash paid out
- Preparing the Treasurer's report for the annual general meeting
- Liaising with the appointed auditor or Independent Examiner for the annual review of accounts

Secretary

The Secretary of a voluntary organisation can be responsible for many specific tasks, some of which will be regular practical administrative duties of paid staff in larger organisations. These can include:

- Convening meetings and booking rooms
- Dealing with correspondence
- Preparing agendas for meetings in consultation with the chairperson
- Taking the minutes
- Company Secretary

The position of a 'company secretary' has a specific legal meaning. A voluntary organisation that is a charitable company and chooses to have a 'company secretary' does not need a secretary as well. The company secretary doesn't have to be a board member, a staff member or anyone directly connected to the organisation. The organisation can choose anyone it believes is suitable for the task. If a board member is the company secretary they retain all the normal rights and responsibilities of a director – including the right to make decisions and vote at board meetings. If a member of the company is the company secretary they retain the normal rights and responsibilities of membership including the right to vote at general meetings. If the secretary is someone else, e.g., a staff member, the position does not automatically make them a member of the board, or a member of the organisation, and they have none of the rights or responsibilities of either.

Note that under the Companies Act 2006 it is no longer compulsory to have a company secretary.

RECRUITMENT

The whole process of recruiting and electing trustees is a vital part of how voluntary organisations function. Make sure you are clear about what's involved. The first trustees appointed in any organisation are likely to be drawn from the group who set

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up the new body. After that, elections can play a useful role when more trustees need to be appointed, or replacements are required for those who have retired.

The board will, and should, change over time with some people leaving, and new people joining. This provides a healthy opportunity for new ideas, skills and outside energy to come in. The constitution should detail how long trustees can be in place, and whether they are eligible for re-election if they wish to continue in office. This method of rolling appointments offers a good way of assessing the performance of the board who will know that their role is subject to scrutiny by the members.

There are three main ways to recruit new trustees:

- Election – from the membership according to the rules laid down in the constitution
- Invitation – to targeted individuals, provided your constitution allows it
- Advertisement – usually followed by some form of selection process to check that potential trustees are suitable

It is important to think about why you need new trustees and what skills and experience you're looking for. Check what your constitution says about recruiting new trustees, and provide an information pack about the organisation for any new potential trustees.

It's important to have a thorough, fair and open recruitment process. Use all contacts and networks your organisation has – existing members and trustees' contacts, local volunteer centres, advertising in local press and through events.

WHO CAN BE A TRUSTEE?

There are no specific legal restrictions on who can be a trustee of an unincorporated voluntary association that does not have charitable status. However you can't be a company director if you are an undischarged bankrupt or disqualified by a court from holding a directorship, unless given leave to act in respect of a particular company or companies. Company Directors also have to be over the age of 16.

Similarly you can't be a charity trustee if you are an undischarged bankrupt or someone with an unspent conviction for dishonesty or an offence under the Charities and Trustee Investment (Scotland) Act 2005. Other disqualifications include someone who has been removed under either Scottish or English Law or the courts from being a charity trustee, or a person disqualified from being a company director.

It is advisable to take up references on chosen candidates and ask for proof of identity and qualifications. Ask any potential trustees to fill in a disclosure form, and a declaration of interests. Carry out PVG checks if working with vulnerable people. Be clear on duties and expectations, and ensure all new trustees have a full induction.

INDUCTION

All new trustees should receive an induction pack with a copy of the constitution, and be fully briefed on the organisation's vision, mission, plans, and financial position. They should:

- Be aware of their role and responsibilities, and any personal liabilities
- Visit the organisation and have the opportunity to meet with staff, volunteers, beneficiaries and service users
- Understand what expenses they can claim
- Receive regular development, training and appraisal opportunities

CONFLICTS OF INTEREST

A conflict of interest is any situation in which a trustee's personal interests or loyalties could, or could be seen, to prevent them from making a decision in the best interest of the organisation they are acting for. Conflicts of interest can arise on voluntary organisation's boards, and that is why it is important to put in place a conflict of interest policy and procedures. The usual approach is to maintain a list of the trustees' declared interests, require committee members to declare interests at relevant points in the committee meeting and then distance them from the decision making, either excluding them from the vote, or sometimes from the discussion and decision making altogether. What is required varies slightly depending on your organisation's legal structure. There is a higher potential for conflicts of interest in organisations where employees are also trustees. The majority of trustees should always be unpaid. See [Appendix 1 for a Sample Code of Conduct](#) and [Appendix 2 for a Sample Register of Interests](#).

Partnerships

International NGOs will usually have at least one partner organisation based in the country where projects take place. It is important to make sure that the organisations you decide to partner with are well governed and adhere to laws in the country in which they are based.

It is important to have a written partnership agreement, often called a Memorandum of Understanding, signed by your organisation and the partner that sets out responsibilities for both parties. This should cover things like;

- Project aims and objectives
- Implementation responsibilities
- Financial responsibilities
- Compliance with policies
- Conflict resolution & partnership dissolution

For more information on working in partnership have a look at the [NIDOS Partnerships Guide](#).

Monitoring, Evaluation & Learning (MEL)

When you receive funds from donors you will be expected to report back on the success of your project. Although monitoring and evaluation are usually carried out by staff it is the ultimate responsibility of the board to ensure that this is taking place and that all donor requirements are being met. Undertaking regular monitoring evaluation and learning are essential to being a well governed organisation that can ensure they are working towards their mission, vision and values.

For more information on how to set up a MEL system please look at the [NIDOS MEL Guide](#).

SOURCES OF ADVICE

[NIDOS](#)

[SCVO](#)

[OSCR](#)

[COMPANIES HOUSE](#)

[CHARITY COMMISSION](#)

[HMRC](#)

[GOOD GOVERNANCE: A CODE FOR THE VOLUNTARY AND COMMUNITY SECTOR](#)

FINANCES

Managing money is not just the job of the treasurer, all of the board are responsible for the finances of the organisation. They have to make sure that the financial affairs of the organisation are conducted properly and reported accurately. Stakeholders of the organisation will expect you to be honest, economical and accountable for the finances of the organisation. Suitable processes and procedures will help prove that your organisation is all of these things. These are particularly important when working through partner organisations to ensure accountability.

Planning ahead - budgeting, reserves, fundraising strategy

BUDGETING

A budget is an estimate of the expenditure you expect to incur by carrying out a plan of action and the income that you hope to generate to pay for this expenditure. It can be drawn up by any group of people to cover a particular activity or group of related activities, or a period of time, usually a year. The budget helps you to see exactly what things will cost so that you can make sure you have enough money to carry out your plan.

The process of preparing a meaningful and useful budget is best undertaken as an organised group exercise with beneficiaries, programme and finance staff working together, where possible. Budgets should be clear, so that other people can pick them up and understand them easily.

Writing a budget involves answering a number of questions:

- What **objectives** are we trying to achieve?
- What **activities** will be involved in achieving these objectives?
- What **resources** will we need to carry out these activities?
- What will these resources **cost**?
- Where will the funds come from? What will the **source** be?
- Is the result **realistic**?

[Mango – budget worksheet example](#)

Don't forget full cost recovery – remember to include your core costs such as rent, utilities, staff related costs such as recruitment and training as well as governance costs for board meetings and AGMs.

RESERVES

Many organisations have only one or two major sources of income and these are not always guaranteed. It is crucial therefore to ensure there are sufficient reserves to tide an organisation over while fundraising is done or to allow an organisation to wind up while meeting its obligation to staff and service users, if existing sources of income are lost.

You must be able to justify the level of reserves that your organisation holds. This is especially true for charities where a high level of reserves could be seen as not properly directing the resources of the charity to the furtherance of its charitable objectives.

[NIDOS model reserves policy](#)

Some funders will not provide funds to an organisation with, as they see it, 'too much money' in reserve. When applying for funds, you should establish funders' policy on reserves and be prepared to share your reserves policy.

FUNDRAISING STRATEGY

Successful fundraising doesn't involve a magic formula, it relies on hard work and people who are well prepared. It is fundamental to have a plan or strategy in place.

Your fundraising strategy should address the following questions:

- What funds do you need to carry out the activities you have planned in your strategy?
- Where will you get those funds?
- How will you ensure that the funds do not dry up, and that you have sustainable sources of funding?
- What will you need to do to raise the funds that you need and what resources will you need?

The [NIDOS Fundraising Guide](#) has more in depth guidance on fundraising.

Watch out for exchange rates when applying for funds for work that will take place internationally – make sure you know which funders will, or won't, cover a shortfall, and which funders will expect funds back if the exchange rates are good and you have some left over at the end of your project.

Keeping control - internal controls, transferring abroad, bribery policy

INTERNAL CONTROLS

Having internal controls around the finances of your organisation can help to prevent mistakes, confusion or even fraud and theft. Internal controls show your stakeholders (members, funders, regulators and beneficiaries) that their money is safe and wisely spent. A financial control policy should set out who is to do what, and when and how, and should be followed without exception. Your systems and policies should also provide guidance to partner organisations who may be mainly responsible for disbursement of funds and financial reporting.

[Community Accountancy Self Help \(CASH\) Financial Controls model policy](#)

TRANSFERRING ABROAD

It is important that your board ensures that funds are going where they're meant to. The safest method to transfer money internationally is often to use the banking system. If your organisation chooses to use a different method such as Money Service Businesses, make sure you can show the reasoning for your choice. The board should carefully consider the amount of money held locally, your organisation could lose money if the local banking system collapses or if exchange rates drop.

Both OSCR and the Charity Commission strongly advise against transporting money in person. Cash above a certain limit that has not been declared may also be seized by the UK Borders Agency.

BRIBERY

Charities and voluntary organisations must safeguard themselves against corruption and financial crime in order to avoid financial and reputational damage. Due diligence checks on all partners, a full risk audit and anti-corruption controls are all essential for organisations working overseas.

[Bond Anti-Bribery Principles and Guidance for NGOs](#)

The Bribery Act 2010 created an offense of "failure of commercial organisations to prevent bribery". This is covered in Section 7 of the Act and is designed to encourage organisations to put in place effective anti-bribery procedures. There is a defence if the organisation can demonstrate that it had "adequate procedures" in place designed to prevent persons "associated" with it from undertaking such conduct. Trading by an NGO or charity and any service for which fees are charged could be considered as 'commercial activities'.

Annual reporting

Keeping accurate accounts is a vital element in running your organisation, ensuring that you are making the most of your income. Exactly what you will need to do will depend on the scale of your operation, your legal status and whether or not you are a charity.

Your board has a responsibility to report on the financial position of your organisation:

- if your organisation is a charity or is incorporated, this is a legal requirement
- if your organisation is not a charity and is unincorporated, the responsibility to report is more moral than legal. However, it is common for funders to require the production of proper accounts as a condition of funding.

Your organisation should keep proper financial records throughout the year, with the end of year accounts normally produced at the end of a financial year. Many organisations use the public sector financial year (April-March), but an organisation can choose its own year, or can follow a different established one, e.g., the European Union financial year (January-December).

The Office of the Scottish Charity Regulator (OSCR) has detailed [information and guidance for registered charities about annual reporting and accounts](#) to make sure they follow charity law requirements.

PEOPLE

People are the central resource for any third sector organisation whether they are employees, interns, volunteers or service providers. With the huge range of legislation requirements, it can often be a complex field for organisations to deal with.

In addition to adhering to legislation in Scotland it's important to respect national employment law in other countries where you are directly employing people.

Volunteers - recruitment and selection, policy, payment

Volunteers may play an exceptionally important role in your organisation. Make sure you know how to look after them and ensure that their volunteering is well managed and effective for everyone involved.

RECRUITMENT AND SELECTION

Some organisations find it easier to recruit volunteers than others, but there is a lot of help available from your local volunteer centre and from [Volunteer Scotland](#). You can access useful good practice guides and Scotland's biggest volunteer opportunity database which you can use to recruit volunteers.

When recruiting volunteers, it's important to have an interview process and to take up references. This is because volunteers may be in positions of responsibility, working with vulnerable people and dealing with the organisation's assets. Where volunteers have substantial access to children or vulnerable adults they may also need to be disclosure checked. A good formal [volunteer recruitment](#) and induction process can help impress upon a volunteer the importance of their role, and help them decide themselves whether they are suitable for the post.

Once recruited, it's vital to ensure that all volunteers are properly trained, supported and insured. Remember that it is a two way contract and volunteers want something in return for their efforts. Providing support is not always straightforward. Sometimes volunteers will be working alone and dispersed. The times that they are available may not automatically coincide with the hours staff work. Arranging support and supervision requires forethought and flexibility. Peer support can be important and useful to volunteers. Many people volunteer as a form of socialising. This can be helped by organising events that bring volunteers together.

VOLUNTEER POLICY

As well as being responsible for paid staff, your trustees will be responsible for deploying your volunteers effectively, so it's essential that your written policies should include volunteers. A [volunteer policy](#) is a written statement of the aims and

values of an organisation, and the role that volunteers have in it. Volunteers should know what they can expect from their volunteering, and what you expect from them.

Many voluntary organisations tend to assume that their volunteers have no legal rights, but this is a dangerous assumption to make. Depending on the degree of formality in the way in which volunteering is organised, volunteers can qualify for legal protection under employment law. Increasingly, volunteers are recruited under volunteering agreements that cover grievance and disciplinary procedures and equal opportunities. Whilst it is good practice to respect the contribution of volunteers in a formal way, you should be aware that the greater the degree of formality in the arrangement, the greater the chance of legal relations being created. Nonetheless, it is still important to outline clearly, in writing:

- the time commitment needed from the volunteer which should include the actual volunteering tasks and time for attending supervision and training
- a role description that gives a realistic picture of the tasks they will be expected to do
- the personal qualities and behaviour required
- your policy on expenses
- their investment in the organisation, scope for representation, etc.

If your organisation is sending volunteers overseas, your policy will need to cover additional things such as information about visas, insurance cover, healthcare provision etc.

HEALTH AND SAFETY

It is the responsibility of the board to ensure the health and safety of employees, volunteers and visitors.

For more information and support [see the Health and Safety Executive website](#) where you can find an example risk assessment and health and safety policy, information for lone workers and home workers, and a risk assessment tool.

[Healthy Working Lives](#) provides free health and safety advice for organisations in Scotland, including free workplace visits and a free helpline 0800 019 2211.

Health and safety legislation will vary overseas, your organisation could make use of the [Health and Safety Executives risk assessment tools](#) anywhere you will be operating or sending employees or volunteers.

PAYMENT

Volunteering is an opportunity for people to give their time, energy and skills. No volunteers should be out-of-pocket as a result of their volunteering. Where someone incurs expenses as a direct result of their volunteering activities they should be reimbursed. This ensures that individuals are not excluded from volunteering on the basis of income. Out of pocket expenses for volunteers may include:

- travelling expenses
- other subsistence costs – food and drink
- any special clothing or tools
- training
- childcare

Organisations should ensure that they do not pay volunteers' expenses at a flat rate, regardless of the actual expenses incurred, as this greatly increases the chance that the relationship will fall within the scope of employment and discrimination law. Payment of out-of-pocket expenses to a reasonable level is legitimate and should not give rise to any tax liability, problems with benefits, or charity law.

Organisations should:

- [produce detailed guidance on claiming expenses](#) for all volunteers
- establish a system for reimbursing expenses which reflects the organisation's commitment to paying expenses as part of equal opportunities and enables volunteers to claim expenses without embarrassment
- budget for volunteers' expenses.

Interns

There is no legal definition of an intern, however a good guideline is that interns should develop their professional skills and understanding of a profession by undertaking work of value for an employer.

Internships are short-term positions that offer mutual benefits to the host organisation and the intern. An internship provides a work-based learning opportunity for individuals who wish to develop hands-on experience in a certain occupational field.

Internships should be clearly distinct from other opportunities that may be available in your organisation, such as job roles, work experience, apprenticeships or volunteering.

The Chartered Institute of Personnel and Development (CIPD) has produced a useful [guide to internships](#) and there is lots of useful guidance and resources about interns on the [Third Sector Internships Scotland website](#).

Employing staff -recruitment and selection, contracts, disciplinary and grievance procedures, performance management

With the huge range of employment law, health and safety, equality and confidentiality requirements, employing staff can often be a complex field for organisations to deal with.

If you're a member of SCVO you can access their [Employment and HR service](#) provided by Harper Macleod LLP. This service offers a wide variety of HR resources as well as specialist advice, training and mediation. In addition SCVO members with an income of less than £500,000 can access [free legal advice service](#). NIDOS members can also access this service until the end of December 2015.

RECRUITMENT AND SELECTION

The recruitment and retention of staff can be crucial to the delivery of services or activities for your organisation. The recruitment and selection process can be a potential minefield of legislation and good practice, and if you get it wrong it can be time consuming and expensive. But there is a lot of help you can access, check out the sources of advice at the end of this section for more information.

Recruitment should begin with your trustees considering the duties that need to be covered, and the type of skills and experience required. Think about how much your organisation can afford to pay, and have a look at what other organisations offer for similar roles on [Goodmoves](#) Scotland's charity and voluntary sector recruitment website.

Make sure that job adverts comply with equalities legislation, don't discriminate against any potential applicants, and include acknowledgement of any funding your organisation has received for the post. Include the closing date for applications and the date you intend to interview applicants. Having a standard application form will ensure you receive the information you need, and will make it easier to assess all applications fairly.

Consider all applications against the criteria set out in the person specification, and make a short list of applicants to interview. To help keep the shortlisting impartial, involve more than one person, and use a scoring system. Do the same when interviewing, and use an agreed set of questions for everyone. Once you have chosen who to offer the post to, make sure you follow up references before formally offering them the job.

CONTRACTS

You are legally required to give a contract, or written statement of employment, to all paid staff who have been employed for at least a month. Having a contract in

place helps to avoid any misunderstanding should things go wrong, and should include:

- Name
- Start date
- Salary/rate of pay*
- Hours and place of work
- Holiday entitlement
- Sick pay entitlement
- Notice period
- Disciplinary and grievance procedures

The contract should be signed by the employee and reviewed on a regular basis.

* The [National Minimum Wage](#) is the minimum pay per hour almost all workers are entitled to by law. The [Living Wage](#) is an hourly rate which is set at a level which allows a normal standard of living.

DISCIPLINARY AND GRIEVANCE PROCEDURES

Your organisation should have agreed policies and procedures which staff are required to comply with. These should cover such issues as:

- use of email and internet
- data protection
- confidentiality
- bullying and harassment
- alcohol and drug use

Written copies should be given to employees with their contract as part of a staff handbook and covered as part of their induction training.

A clear disciplinary procedure is an important part of any staff handbook. It allows the employer to explain when improvement is required in an employee's conduct or performance and should set out clearly what constitutes gross misconduct in your organisation.

Similarly, an accessible grievance procedure is vital for employees who have a complaint about their work or workplace, or someone they work with.

[ACAS](#) offers good practice advice for dealing with discipline and grievances. NIDOS also has a [model disciplinary procedure](#).

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PERFORMANCE MANAGEMENT

Good performance management can help everyone know:

- What your organisation is trying to achieve
- What their role is in achieving the organisation's aims and objectives
- The skills and competencies required to fulfil their role
- The standard of performance required and how it can be improved and developed

In order for employees to develop their performance and contribute to the success of the organisation, you should ensure they have the right support and supervision, and training and development.

[ACAS](#) offers good practice advice for dealing with performance management.

SOURCES OF ADVICE

[Government](#) website with a wide variety of advice notes on aspects of employment law including contracts; dismissal; health and safety; pensions; recruitment and benefits. There is no tailored individual advice line.

Scottish specific advice on employee's rights at work from [Citizen's Advice](#). This is generally written for employees rather than employers but is a useful resource.

[The Advisory, Conciliatory and Arbitration Service](#) provides online advice for many areas of employment law as well as a conciliation service. They also provide an automated advice service which can provide more tailored advice for your enquiry.

[The Chartered Institute of Personnel and Development \(CIPD\)](#) is the world's largest Chartered HR and development professional body. While membership based, they provide good online HR resources including a number of standard HR policies.

[The Health and Safety Executive in Scotland](#) and the related HSE UK website provide a number of advice notes on good, legal practice in ensuring employees' health and safety. They provide risk assessments for a variety of work places.

[The Equality and Human Rights Commission in Scotland](#) provides legal updates, advice and the standard Codes of Practice for equal pay, employment and services, as well as technical guidance on how they are applied.

The [Information Commissioner](#) provides good information and style codes for businesses and how they protect their employees' privacy.

[HMRC](#) provides information on tax, National Insurance, National Minimum Wage, etc

KEEPING IT LEGAL

The board are responsible for making sure the organisation follows any legislation which applies to it. This can vary between organisations, depending on the kind of activities they do. SCVO has more information about [keeping it legal](#) on their website.

People - PVG, equality and diversity, data protection

PROTECTION OF VULNERABLE GROUPS

The PVG Scheme is a registration system for anyone who carries out work (paid or unpaid) with vulnerable groups in Scotland. It is designed to exclude people who are known to be unsuitable from working with vulnerable groups and detects those who become unsuitable while in the workplace.

People who are protected by the PVG Scheme are:

- individuals under the age of 18 (children)
- individuals over the age of 16 who are provided with care, health, community care or welfare services (protected adults)

If your organisation has paid staff or volunteers who are carrying out regulated work, you need access to scheme records. You must either:

- register with [Disclosure Scotland](#), which will enable them to countersign disclosure applications or requests
- or enrol with a registered body that can provide counter signatory services for them (Volunteer Scotland Disclosure Services can help with this)

Disclosure checks on volunteers are free and are carried out by [Volunteer Scotland Disclosure Services](#). Disclosure checks carried out on paid employees will cost money, and are generally carried out by Disclosure Scotland. [Information about fees is available from Disclosure Scotland](#)

[Disclosure Scotland has a guidance booklet](#) which outlines everything you need to know about the PVG Scheme.

EQUALITY AND DIVERSITY

Treating people equally is not about treating everyone the same. Equality is ensuring individuals or groups of individuals are treated fairly and equally and no less favourably, specific to their needs, including in areas of race, gender, disability, religion or belief, sexual orientation and age. Promoting equality should remove discrimination in these areas. Diversity aims to recognise, respect and value the differences between people and enable them to realise their full potential by promoting an inclusive culture for all.

[The Equality and Human Rights Commission](#) (EHRC) is the statutory body that deals with the elimination of discrimination and the reduction of inequality.

In addition to a moral duty to treat people fairly and with respect, your organisation has legal responsibilities in respect of equalities if you provide goods, facilities or services to the general public, or employ people. Your trustees are responsible for ensuring that your organisation complies with equalities legislation and best practice. A good place to start is with an [equal opportunities policy](#) that all staff and volunteers are fully aware of.

DATA PROTECTION

If you hold and process information about your clients, employees or suppliers, you are legally obliged to protect that information. Under the Data Protection Act you must:

- Only collect information that you need for a specific purpose
- Keep it secure
- Ensure it is relevant and up to date
- Only hold as much as you need, and only for as long as you need it
- Allow the subject of the information to see it on request

If you handle personal information you may need to [register with the Information Commissioner's Office](#) (ICO) as a data controller. Notification is a statutory requirement and every organisation that processes personal information must notify the ICO unless they are exempt. Failure to notify is a criminal offence. For more information see [the Information Commissioner's Office website](#).

Preparation - risk assessment, health and safety

RISK ASSESSMENT

Identifying, assessing and managing risk is an important board responsibility. All organisations, regardless of size or the area they operate face risk. It could be the risk of losing a valuable contract, the resignation of key staff or volunteers, or fraud or bad publicity. The board can take steps to avoid or reduce risk, e.g. by taking out insurance, and should ensure that the potential risks facing the organisation are reviewed strategically and regularly. Important areas to cover include:

- Governance risks
- Operational risks
- Financial risks
- External risks
- Compliance with law and regulation

By managing risk effectively trustees can ensure that the organisation's aims are achieved more successfully.

Whether you are a trustee, CEO or team leader, this free [KnowHow NonProfit free toolkit](#) will help you identify potential risks to your organisation. Based on your answers to the self-assessment questions, the toolkit will identify where you may have some weaknesses while also providing practical advice about getting to grips with the problem.

HEALTH AND SAFETY

It is the responsibility of the trustees to ensure the health and safety of employees, volunteers and service users. This responsibility can be delegated to a member of staff or volunteer. If you have five or more employees, your organisation is legally required to have a written Health and Safety policy. Even if your organisation has less than five staff, your trustees still have a legal responsibility to provide a safe and healthy working environment, and it is best practice to have a Health and Safety policy.

[The Health and Safety Executive](#) has an example risk assessment and health and safety policy, information for lone workers and home workers, and a charity shop risk assessment tool.

[The Scottish Centre for Healthy Working Lives](#) provides free health and safety advice for organisations in Scotland, including free workplace visits and a free helpline 0800 019 2211.

Protecting

INSURANCE

Your organisation can buy insurance to protect its money, people, property and reputation. Insurance is required by law if your organisation employs staff or operates vehicles on public roads.

Compulsory insurance

- Employers' liability insurance: required by law for organisations that employ staff to insure against any claims by workers for injury or disease. A valid certificate of insurance must be displayed.
- Motor insurance: required by law for organisations that own or operate motor vehicles, with third party cover as a minimum as required by the Road Traffic Act.

There are many other types of insurance your organisation can also buy. A [risk assessment](#) can help you decide which insurances are necessary.

Highly recommended insurance

- Public liability insurance: covers injury loss or damage caused to third parties as a result of the organisation's negligence.

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- Professional indemnity insurance: protects against claims for negligence arising out of advice or information provided by an organisation.
- Legal expenses insurance: covers specified legal expenses that may be incurred in defending or pursuing certain types of action, eg employment disputes.

Discretionary insurance

- Trustee indemnity insurance: this protects members of the voluntary management committee from personal liability with respect to claims related to their actions in their roles as committee members or directors. Charities are permitted to use charity funds to provide all their charity trustees with indemnity insurance.
- Events insurance
- Fidelity insurance
- Accident and sickness insurance
- Property and equipment insurance
- Car insurance for staff/volunteers
- Hirer's public liability cover (for village halls and community buildings)

Insurance advice

Under statutory regulations there are constraints on who can provide information and advice about insurance. SCVO endorses the Encompass policy specifically designed for voluntary organisations by Keegan & Pennykid. Their [Encompass Insurance Guide](#) covers areas that voluntary organisations should consider insuring. The [Association of British Insurers](#) can provide general information and details of insurance firms that specialise in given areas of work.

Appendix 1 - Sample Code of Conduct

Trustees* of the XXXX organisation have a duty to:

- 1 Accept the responsibilities of their position, and to act at all times in the best interests of XXXX organisation, ahead of any other professional or personal interest. They should at all times consider what is best for the organisation and its beneficiaries, and avoid bringing XXXX organisation into disrepute.
- 2 Be familiar with the organisation's governing document and act in accordance with its terms and any relevant legislation.
- 3 Have an up-to-date knowledge of XXXX organisation, its values and principles, and its operating environment.
- 4 Manage conflicts of interest effectively. Declare any and all relevant interests on appointment and during meetings of the Board.
- 5 Respect confidentiality, and work considerately and respectfully with all, respecting diversity, different roles and opinions, and avoid giving offence.
- 6 Prepare fully for, and attend meetings. Actively engage in discussion and debate at meetings, listening carefully, challenging sensitively, and avoiding conflict. Act collectively at meetings and accept a majority decision.

*Whilst the term trustee has been used in this sample, other terms such as committee member, Director, etc., can also be used

Appendix 2 - Sample Register of Interests

XXXX Organisation's trustees are required to declare all relevant interests, on appointment and at meetings of the Board. The Register and the information contained in the Consent Form will be made routinely available to all trustees, and on request to members, funders and the public, in the latter instances, *always with the proviso that no contact details will be divulged without permission in order to safeguard the Board members' privacy.*

The following details should be recorded below:

- Details of any significant consultancies undertaken over the last 5 years
- Any financial stake in relevant organisations, or as a beneficiary of such an organisation (eg employment, stocks and share, etc.)
- Any 'connected person' in relevant organisations, or as a beneficiary of such an organisation
- Any other interest which might be reasonably construed as creating a conflict of interest.

*Whilst the term trustee has been used in this sample, other terms such as committee member, Director, etc can also be used.

Appendix 3 – Legal Structures for Voluntary Organisations

This is a summary of the legal structures most commonly associated with voluntary organisations, more detailed information is available [here](#)

Legal Structure	Summary	Charitable status and tax benefits?	Does it have a legal identity distinct from those who run it?	Governance
<p>Scottish Charitable Incorporated Organisation (Two tier or one tier) NOTE: OSCR is the regulator of this legal form, not just its charitable status Removal from the Charitable Register equals dissolution.</p>	<p>Ready-made corporate structure specifically designed for charities</p>	<p>Yes, cannot be anything but a charity and must meet the criteria for being a charity</p>	<p>Yes. SCIO can hold property, enter into leases and employ people in its own right. Title to land and buildings will be held in name of SCIO (advantage in terms of succession). Members and trustees liability limited in most cases, not liable to contribute if wound up.</p>	<p>Some charity trustee duties apply to members Minimum of one members' meeting every 15 months Bar on transfer of membership Minimum of 2 members Minimum of 3 charity trustees Duty to keep and supply to the public a register of charity trustees; and to keep and supply to the members a register of members</p>
<p>Unincorporated Association</p>	<p>Informal, no general regulation, need to make own rules. Little bureaucracy or set up costs</p>	<p>Yes, if it meets the criteria for being a charity</p>	<p>No. Some or all of charity trustees must undertake transactions on behalf of the body. Title to land and buildings must be held in the name of one or more individuals on behalf of the charity. Charity trustees may have personal liability for charity's actions and unlimited liability it is wound up.</p>	<p>Governed according to its own rules, but if a charity, constitution must be approved by OSCR</p>

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<p>Trust</p>	<p>Best suited to small groups of people who want to manage money or property. Assets owned by trustees and managed in interests of beneficiaries on the terms of the trust.</p>	<p>Yes if it meets the criteria for being a charity</p>	<p>No. Some or all of the charity trustees must undertake transactions on behalf of the body. Title to land and buildings must be held in the name of one or more trustees. Charity trustees may have personal liability for the body's actions, although there are certain protections for trustees in trust law and common law.</p>	<p>Governed according to its own rules, but if a charity, trust deed must be approved by OSCR</p>
<p>Company Limited by Guarantee NOTE: Have to report to OSCR and Companies House.</p>	<p>Before SCIOs the most frequently adopted corporate structure for charities. Directors manage business on behalf of members.</p>	<p>Yes if it meets the criteria for being a charity</p>	<p>Yes. Company can undertake transactions in its own right. Title to land and buildings will be held in the name of the company (advantage in terms of succession)/ Members (incl Board) have limited liability (usually £1) to contribute if wound up. Offers creditor protection.</p>	<p>Defined statutory procedures for meeting, resolutions, etc. Additional statutory duties on directors, which in certain cases exceed duties of charity trustees. Must produce accrued accounts no matter the size of turnover. Must keep up to date records of Board members and inform Companies House of changes. Must keep register of members. Board members liable for fines imposed for late annual returns.</p>

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<p>Community Interest Company (CIC)</p>	<p>Limited company structure for social enterprise with secure 'asset lock' and focus on community benefit</p>	<p>No</p>	<p>Yes. Members' liability limited to amount unpaid on shares or by guarantee.</p>	<p>As for other limited companies, but subject to additional regulation to ensure community benefits. Can pay limited dividends to private investors.</p>
<p>Industrial & Provident Society (IPS) (Co-operative society for the mutual benefit of members)</p>	<p>Halfway between a registered company and an unincorporated association. It has rules of association, yet is an incorporated body with the benefit of limited liability.</p>	<p>No</p>	<p>Yes. Members have limited liability, but without all the requirements associated with limited liability under the Companies Acts. IPS can hold property, enter into leases and employ people.</p>	<p>Defined set of IPS rules Committee/officers manage on behalf of members. One member, one vote.</p>
<p>Industrial & Provident Society (IPS) (Community benefit society).</p>	<p>Halfway between a registered company and an unincorporated association. It has rules of association, yet is an incorporated body with the benefit of limited liability.</p>	<p>Yes but only if set up for the benefit of the community and not members, and meets the criteria for being a charity.</p>	<p>Yes. Members have limited liability, but without all the requirements associated with limited liability under the Companies Acts. IPS can hold property, enter into leases and employ people.</p>	<p>Defined set of IPS rules Committee/officers manage on behalf of members. One member, one vote.</p>