



## Get Legal

As the arrangements for commissioning of services are developing, and with increasing numbers of people looking at the option of setting up to deliver services we thought it might be useful for you to consider what kind of organisation you want to be.

### **Should you incorporate?**

Incorporation is an important consideration if your organisation intends to employ staff, take on property interests (for example, a lease) or undertake contractual obligations (for example, a contract to provide services with a local authority) or operational risks (for example, working with children). Incorporated legal forms include companies and industrial and provident societies. Incorporation is a significant risk management process but it's not the only one.

### **Have you considered how the organisation will be financed?**

The most obvious source of finance is an organisation generating its own surpluses to reinvest. But there are a range of further sources of finance available to charities, co-operatives and social enterprises. Although some types of funding can be obtained by any legal form, other types are only available to certain legal forms.

**Grants:** Charities, social enterprises and co-operatives often receive part of their funding through grants from charitable foundations, government or European funds. Any legal form is able to accept a grant although charities tend to find funders more receptive.

**Debt:** Debt finance, usually in the form of loans, may be obtained from banks, specialist social finance providers (such as community development finance institutions, or co-operative lenders) or from supporters. Again, this source of finance is available to any legal form although an incorporated form is preferable as the obligation to repay the loan may be a substantial liability.

**Equity:** Equity finance means a company ceding part-ownership and selling shares in it to a third party in exchange for funding. Not all legal forms will allow a company to receive equity investment.

### **Let's have think about an organisation**

So you have decided that you want to incorporate, so that you can manage the risks to individuals in the organisation, you want to be able use any surplus of revenues for community benefit, but you want significant board members to be paid or to receive a benefit from your organisation. What's the appropriate legal structure?

In this instance you probably would not want to become a charity, but should become a Community Interest Company limited by guarantee.



### **Let's try another?**

You have decided to incorporate, you want any surplus of revenues to be used for community benefit, and you don't want significant board members to be paid or to benefit. What's the most appropriate structure?

You should consider becoming a Charitable Company limited by guarantee. (If you want a large membership the forms are different.) Remember also that to register as a charity you need an income in excess of £5000 per year, if you have less than this you can apply for recognition of your charitable purpose from HM Revenue and Customs.

For additional guidance on what form of organisation you should adopt you can visit the Get Legal website: [www.getlegal.org.uk](http://www.getlegal.org.uk).

This free resource includes more detailed guidance about decision making processes, around incorporation and charities as well as links to other organisations if you decide that your activities are not charitable.

The website has been developed by NCVO and legal advice is provided by Bates Wells and Braithwaite Solicitors. If you need additional support call us on **0333 321 3021** or use our web resources at [www.manchestercommunitycentral.org](http://www.manchestercommunitycentral.org)