

Social Enterprises

A social enterprise is a business which makes its money from selling goods and services and reinvests profits back into the business or the local community. Unlike charities and community groups, social enterprises can be owned and run by paid staff, or by people who have invested money in them. “Social enterprise” isn’t a single legal structure – social enterprises can adopt different legal structures depending on their needs and the way they work.

Even if your group does not plan to sell goods and services, or pay staff, one of the structures below might suit you if you would like your organisation to be incorporated. (An incorporated organisation has “legal personality”, which means can enter into contracts, buy or lease property, and employ people in its own right. The members or directors are agents of the organisation and are not personally liable for its debts.)

Here are some circumstances in which adopting one of the structures below might be the right choice for your organisation:

- You wish to be in control of the organisation and make a living from it
- Your organisation will make most or all of its income through trade and will not be reliant on grant funding
- You wish to ask members of the community to buy shares in your organisation to help fund it to get going
- You wish to sell goods or services to your members
- You wish to be incorporated but your aims are not legally charitable, so you cannot set up a Charitable Company or a SCIO

There are a number of different legal structures a social enterprise can adopt. These include:

- Community Benefit Society and Cooperative Society
- Limited Company (including Community Interest Company (CIC))
- Limited Liability Partnership
- Development Trust and Social Firm

Community Benefit Society and Cooperative Society

Community Benefit Societies and Cooperative Societies are useful structures if you need to fund your organisation by selling shares to members. These types of Society are registered with and regulated by the Financial Conduct Authority.

A Community Benefit Society is owned by its members. Members hold shares and control the society democratically, on a one-member one-vote basis. The society must exist primarily for the benefit of the wider community, and members should not receive preferential treatment. Profits

must be used for the benefit of the community (although interest on shares can be paid to members, up to a maximum rate).

If a Community Benefit Society has aims that are legally charitable, it can register as a Charitable Community Benefit Society. This allows the organisation to call itself a charity, although it is not regulated by the Charity Commission.

A Community Benefit Society is a useful structure if your community wishes to take control of an asset, such as a building. You can fund your organisation by selling “Community Shares”, and run the service to benefit the wider community.

A Cooperative Society is a similar structure to a Community Benefit Society, but the main purpose is to provide services to its members rather than the wider community. Cooperative Societies must be based on the co-operative values of self-help, self-responsibility, democracy, equality, equity, and solidarity. In general, membership to a Co-operative Society is open to all people who use the services provided by the society, and profits may be distributed to members providing this is not the primary purpose of the organisation.

A Cooperative Society might be a suitable structure if your organisation plans to provide goods or services to its own members (e.g. a food co-op).

Co-operative Societies and Community Benefit Societies are incorporated, which mean they have “legal personality”. They can enter into contracts, buy or lease property, and employ people in their own right. The members are not personally liable for the Society’s debts.

To find out how to register a Community Benefit Society or Cooperative Society contact the Financial Conduct Authority. There is also very useful information about setting up these Societies on the Community Shares website.

Limited Company, including Community Interest Company (CIC)

A Limited Company is incorporated, which mean it has “legal personality”. It can enter into contracts, buy or lease property, and employ people in its own right. The directors are agents of the company and are not personally liable for its debts.

A limited company is run by a board of directors, who can be paid (unless the company is also a charity, see Charitable Company).

A company can be Limited by Guarantee or Limited by Share Capital. Being Limited by Share Capital allows profits to be distributed to share holders, so companies limited by share capital are unlikely to be not-for-profit organisations. Companies limited by guarantee can be not-for-profit, but if the directors are paid it can make it difficult to get grant funding.

Community Interest Company (CIC)

A CIC is a limited company with special features to ensure that it works for the benefit of the community.

CICs commit their assets and profits permanently to the community by means of an “asset lock”, ensuring that assets are used for the benefit of the community.

It differs from a charitable company in that it can be established for any purpose which benefits the community, whereas a charity must have exclusively charitable purposes.

Like other limited companies, the directors of a CIC may be paid. Bear in mind that some funders choose not to fund organisations with paid directors.

To register a new CIC, you have to apply to Companies House to register a company, and include with your application form CIC36, which you will use to describe how your company will benefit the community. You can also apply for CIC status for an existing limited company (including charitable limited company), but your organisation cannot be simultaneously a registered charity and a CIC.

For more information contact the Office of the Regulator of Community Interest Companies.

Limited Liability Partnership (LLP)

A Partnership is a way that two or more people can run a business together, share responsibility and share the profits. A Limited Liability Partnership (LLP) is a type of partnership that has a separate legal personality similar to a company, so the partners are not personally responsible for the business’s debts.

An LLP is a much more flexible structure than a company. There is more freedom to control things like the way decisions are made and how profits are distributed. An LLP can be a social enterprise if the partners decide that they will invest a majority of the profits into a social purpose.

Partners within an LLP generally take a salary from the business. Unlike Company Directors, however, their salaries are usually considered to be part of the profits of the business, rather than an operating cost. This can make it difficult to evidence that a majority of profits are going to a social purpose. The partnership agreement should outline very clearly the terms of partners’ pay and how the partnership meets a social purpose. It still may not be considered not-for-profit for some purposes.

An LLP cannot guarantee it’s social purpose and not-for-profit status in the way that a Charitable Company, SCIO or CIC can. This might make it harder to attract investment from organisations that make loans to social enterprises. An LLP will also struggle to attract grant funding because all the control is with partners who can take a salary from the business.

An LLP might be a structure to consider if you want a lot of flexibility and freedom, and will not need to rely on external funding.

LLPs are registered with Companies House.