

Starting Up: Charity types - How to choose a structure

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1. Types of charity structure

To set up a new charity, you must decide what sort of legal structure it will have.

Your charity structure is defined by its 'governing document' (the legal document that creates the charity and says how it should be run).

The type of structure you choose affects how your charity will operate, such as:

- who will run it and whether it will have a wider membership
- whether it can enter into contracts or employ staff in its own name
- whether the trustees will be personally liable for what the charity does

There are four main types of charity structure:

- charitable incorporated organisation (CIO)
- charitable company (limited by guarantee)
- unincorporated association
- trust

You need to choose the right structure for your charity, depending on whether you need it to have a corporate structure and whether you want to have a wider membership.

2. About corporate structures

Some charity structures are corporate bodies. If you choose a structure that forms a corporate body, the law considers your charity to be a person in the same way as an individual.

This gives your charity the legal capacity to do many things in its own name that a person can do, such as:

- employing paid staff
- delivering charitable services under contractual agreements
- entering into commercial contracts in its own name
- owning freehold or leasehold land or other property

If a charity structure is a corporate body, generally its trustees aren't personally liable for what it does.

If your charity isn't a corporate body ('unincorporated'):

- the trustees are personally liable for what it does
 - it won't be able to enter into contracts or control some investments in its own name
 - two or more trustees, a corporate custodian trustee or the charities' land holding service will have to 'hold' any land on your charity's behalf
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3. About charities with a wider membership

Some charity structures have a wider membership. If you set up a charity with a wider membership, it can have members who vote on important decisions (usually at AGMs). For example:

- appointing committee members who will run the charity (usually for fixed terms)
- making changes to the charity's governing document

A charity with a wider membership may carry out its work wholly or partly through the voluntary effort and contributions of its members. Having people your charity helps as members can help you take account of their views.

If you set up a charity with a wider membership, it mustn't be set up only for the benefit of your members unless:

- a sufficient section of the public can access those benefits by becoming members – for example, anyone can join
- the membership structure is a suitable way of carrying out your charity's purposes for the public benefit – for example, members of an amateur sport club

Some charity structures don't have wider members – the trustees decide how their charity is run and make all decisions on:

Resources:

www.gov.uk/guidance/charity-types-how-to-choose-a-structure

www.gov.uk/guidance/how-to-write-your-charitys-governing-document

- how it spends its money
 - how new trustees are appointed
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4. Charities with a corporate structure: which type to choose

With wider membership

Set up an association CIO if you want your charity to be a corporate body and have a wider membership, including voting members other than the charity trustees.

To do so you must:

- have a constitution as your governing document – use the Charity Commission’s model association CIO constitution (or stay very close to it)
- register your CIO with the commission for it to legally come into existence
- keep a register of its members and trustees
- send its accounts and annual return to the commission each year, regardless of its income

Alternatively, you could set up a charitable company: a corporate body which can be set up with or without a wider membership. Choose articles of association as your governing document.

Charitable companies can never be the same as commercial companies. Unlike commercial companies, a charitable company:

- can’t distribute its surpluses to its members or shareholders – a charitable company is usually limited by guarantee, not shares
- can only apply its assets to carry out its charitable purposes
- must operate in a way which is in the best interests of the charity

You must register your charitable company with both the commission (if eligible) and Companies House. You’ll also need to provide detailed information on its finances and activities each year.

Without wider membership

Set up a foundation CIO if you want your charity to be a corporate body, the only members are the trustees and you don’t want a wider membership.

To do so you must:

- have a constitution as your governing document – use the commission’s model foundation CIO constitution (or stay very close to it)
- register your CIO with the commission for it to legally come into existence
- keep a register of its trustees (who are also the members)
- send its accounts and annual return to the commission each year, regardless of its income

If you are an existing charity wishing to convert to a CIO structure, choose the CIO model constitution which best matches your original charity.

Use the association model if your original unincorporated charity:

- has a constitution as its governing document
- has a wider membership which votes on important decisions, such as electing trustees or committee members

Use the foundation model if your original charity:

- is governed by a trust deed, will, scheme or conveyance
- is run solely by its trustees
- doesn’t have a voting membership

Complete the appropriate CIO constitution template as your new CIO’s governing document. Once the trustees agree the constitution, register your new CIO with the commission.

Whichever CIO model constitution you choose, if in the future you decide that the other constitution better suits your charity, you can amend your constitution to make the changes.

5. Charities without a corporate structure: which type to choose

With wider membership

Set up an unincorporated association if you want your charity to have a wider membership but it doesn’t need a corporate structure (for example, if it will be relatively small in terms of assets). Choose a constitution as your governing document.

Without wider membership

Set up a trust if your charity doesn’t need a corporate structure or a wider membership. For example, if it:

- is unlikely to employ a significant number of staff or carry on any kind of business
- makes grants but doesn’t do any other type of work

Choose a trust deed as your governing document. It must specify a sum of money, land or some other assets that your charity will start with (it doesn’t matter how much). Otherwise you won’t be able to register it with the commission.

Resources:

www.gov.uk/guidance/charity-types-how-to-choose-a-structure

www.gov.uk/guidance/how-to-write-your-charitys-governing-document

6. How to write your governing document

Write your governing document once you've decided on a structure. This needs to set out your charity's purposes and how it will be run.

Use one of the [Charity Commission's model governing documents](#), either:

- as a template (recommended) – this makes it easier to register your charity
- as a reference – to see what a governing document looks like and what it must contain

If you use a model governing document, complete the template in full. Select all of the options that apply to your charity, and sign and date it where required.

If you're setting up a charity associated with a national organisation, it may have its own governing document template you should use. You must use that template in full without changing or adding to it. Alternatively, ask your national organisation if you can use one of the commission's model governing documents instead.

7. How to change your charity's structure

A charity can usually change its structure if its trustees decide that a new structure would better suit the way it plans to operate.

This can be complex depending on what you want to do. Read [Change your charity's structure](#) for more information.