

Contents

- Introducing the Charitable Incorporated Organisation
- Pre-registration Guidance for Brand New Charities
- Pre-registration Guidance for Existing Unincorporated Charities
- Pre-registration Guidance for Existing Charitable Companies
- Registering your Charity as a CIO for New and Existing Unincorporated Charities
- Converting your Charitable Company into a CIO
- Post-registration Guidance for Brand New Charities
- Post-registration Guidance for Existing Unincorporated Charities
- Post-registration Guidance for Existing Charitable Companies
- Further information

Appendices

- Appendix 1 Model CIO Constitution for Childcare Providers
- Appendix 2 Volunteering as a Charity Trustee
- Appendix 3 Notice of Transfer of Employment by Existing Setting
- Appendix 4 Report on the Implications of Changing to a CIO UA
- Appendix 4 Report on the Implications of Changing to a CIO CC
- Appendix 5 Notice and Minutes for the EGM to Approve Conversion for an Existing Unincorporated Charity
- Appendix 5 Notice and Minutes for the EGM to Approve Conversion for an Existing Charitable Charity
- Appendix 6 Guidance on personal benefit
- Appendix 7 Notice and Minutes for the EGM to Dissolve the Existing Charity
- Appendix 8 Membership declaration
- Appendix 9 Statutory Registers of the CIO
- Appendix 10 Notice of Transfer of Employment from the New CIO

Introducing the Charitable Incorporated Organisation

UPDATE: *The Alliance has been working hard to ensure that our services and offers remain relevant to the early years community, and as a result we have seen our membership base expand and evolve over recent years. Our new name, **Early Years Alliance**, will therefore reflect the growing variety of early years professionals who are now a part of the Alliance, as well as emphasising our ongoing commitment to supporting an ever-widening range of early years providers, providing a united voice for all our members.*

Please note that the Pre-school Learning Alliance governing documents, for example, the constitution and Memorandum and Articles of Association, retain their original name. These are likely to be adjusted in the future with the opportunity for members to adopt. At which time all purchasers of this book will be notified via the Early Years Alliance Publications email.

The Charitable Incorporated Organisation (CIO) is a legal structure most suited to small and medium sized organisations, that provides the benefit of limited liability without the burdens of being regulated by Companies House in addition to the Charity Commission.

The Alliance has prepared this guide, as well as the *Pre-school Learning Alliance Model CIO Constitution for Childcare Providers 2013* (see Appendix 1), based on arrangements put in place with the Charity Commission. They have been developed to support Alliance member childcare providers, based in England or Wales, either wishing to set up a new charity as a CIO, or to change from their existing unincorporated or incorporated charity structure to a CIO.

This guide should only be used by existing charities if they have adopted and are currently using one of the following governing documents:

- for unincorporated associations, the Pre-school Learning Alliance Model Constitution or PPA Playgroup Constitution
- for charitable companies, the Pre-school Learning Alliance Memorandum and Articles of Association

Although much of this guidance will be relevant to charities with other governing documents, the process of establishing a CIO may not be exactly the same in this case. We therefore suggest that such providers seek their own legal advice and do not rely solely on this guide.

The legal framework and the rules governing CIOs are currently set out under the following legislation:

- The Charities Act 2011
- The Charitable Incorporated Organisations (General) Regulations 2012
- The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012

Report on the implications of changing to a CIO

As members of [name of charity] you have been invited to an [Annual/Emergency] General Meeting on [date] to consider and decide on the proposal to change the legal structure of the charity from an unincorporated association to a Charitable Incorporated Organisation (CIO). This report aims to provide you with information on the reasons behind the proposal and what this change will mean in practice for the charity, so that you have all the details you need on the day to make a decision as to whether you feel it is in the best interests to proceed with the proposal.

Background

Our charity is involved in activities that are similar to those of an ordinary business; including employing staff, renting premises and entering into contracts with suppliers. These activities mean that as trustees and members of the charity, we are responsible not only for furthering the aims of the charity and looking after its assets, but are also exposed to all of the liabilities and responsibilities concerned with running any ordinary commercial business.

The Charitable Incorporated Organisation (CIO) is an incorporated legal structure most suited to small and medium sized charities, and offers protection to its trustees and members against this type of personal liability. A charitable company limited by guarantee offers similar protection, however, with this structure there is a requirement to register with both Companies House and the Charity Commission. The increased legal requirements, administration and costs involved in dual regulation can be a heavy burden on the trustees, particularly for fairly small charities such as ours.

Reasons for the proposal

The Charitable Incorporated Organisation was established for one fundamental purpose: to provide a structure that offers the members and the trustees of charities greater protection against the liabilities associated with the activities of the charity that they support. This is an advantage that we feel is vital to the success of our charity, which depends on the contribution made by these volunteers.

Currently our charity has the structure of an unincorporated association. This is one of the most common structures for a charity of our size. One main drawback of this structure, however, is that it exists in law as a collection of individuals (the members and the trustees). It does not have its own separate identity, which means that any contracts or liabilities that the charity enters into have to be made on behalf of the charity by individuals. Other people must also be appointed to hold property for the charity.

For this reason, our trustees and in certain cases, our members, may be held personally liable if the charity does not have the resources to meet a liability. Although we currently take a number of precautionary measures to try to reduce this risk (including establishing an appropriate level of reserves and obtaining suitable insurance cover),