



# Governance Workshop Three

25 April 2024

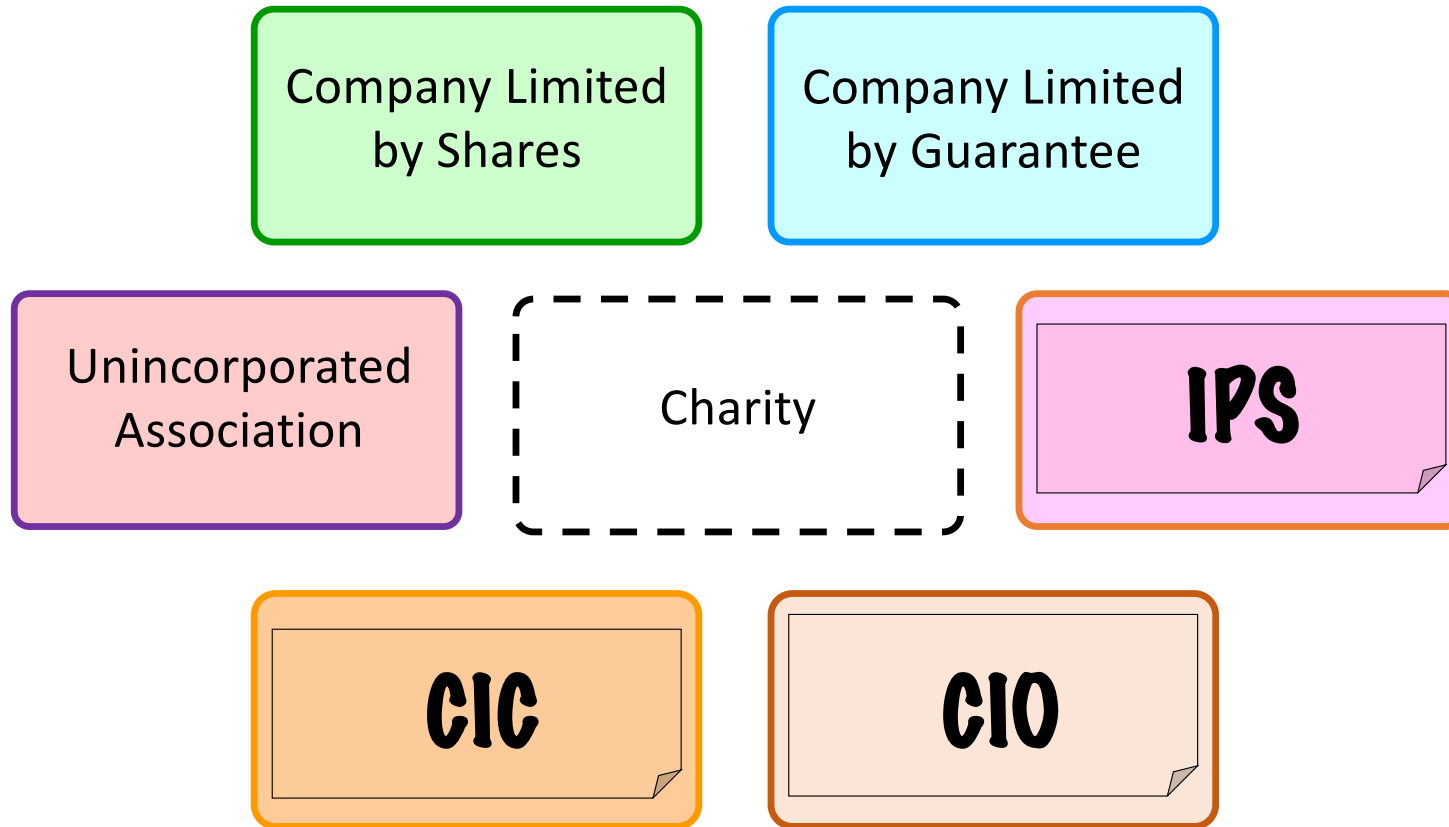
## Outputs

Governance Structures & Changes



Andy Perkin 2024

# What structure?

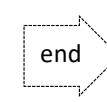
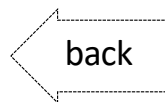


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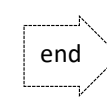
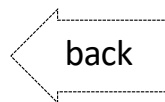
# Unincorporated Association

<p>Description</p> <p>A group of people with a defined purpose - e.g. residents associations, 'friends of' groups, civic societies, sports clubs</p>		<p>Independent</p> <p>?</p>
<p>Governing Document</p> <p>Rules or constitution</p>	<p>Regulator</p> <p>Not regulated</p>	<p>Not-for-profit</p> <p>?</p>
<p>Ownership &amp; Accountability</p> <p>Individual officers or trustees</p>	<p>Liability</p> <p>Unlimited</p>	<p>Self-sustaining</p> <p>?</p>
<p>Charitable Status</p> <p>Can register as a charity</p>	<p>Membership</p> <p>As defined by governing document</p>	<p>Community-led</p> <p>?</p>
<p>Notes</p> <p>Not a legal entity. No need to be of benefit to the community.</p>		<p>Partnerships</p> <p>?</p>



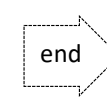
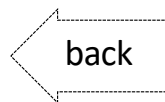
# Company Limited by Shares

<p><b>Description</b></p> <p>The preferred vehicle for trading exclusively for profits and providing a return on investments</p>		<p>Independent</p> <p><b>X</b></p>
<p><b>Governing Document</b></p> <p>Companies Act model</p>		<p>Not-for-profit</p> <p><b>X</b></p>
<p><b>Regulator</b></p> <p>Companies House</p>	<p><b>Ownership &amp; Accountability</b></p> <p>Directors manage on behalf of shareholders</p>	<p>Self-sustaining</p> <p>✓</p>
<p><b>Liability</b></p> <p>Limited to shareholding</p>	<p><b>Charitable Status</b></p> <p>Can not register as a charity</p>	<p>Community-led</p> <p><b>X</b></p>
<p><b>Membership</b></p> <p>Shareholders</p>	<p><b>Notes</b></p> <p>Not the vehicle of choice for a not-for-profit organisation</p>	
		<p>Partnerships</p> <p><b>?</b></p>



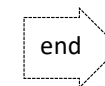
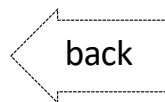
# Company Limited by Guarantee

<p><b>Description</b></p> <p>Long-established vehicle for trading on a not-for-profit basis</p>		<p>Independent</p> <p>✓</p>
<p><b>Governing Document</b></p> <p>Companies Act model or bespoke</p>		<p>Not-for-profit</p> <p>✓</p>
<p><b>Regulator</b></p> <p>Companies House (plus Charity Commission if registered)</p>	<p><b>Ownership &amp; Accountability</b></p> <p>Directors manage on behalf of members</p>	<p>Self-sustaining</p> <p>?</p>
<p><b>Liability</b></p> <p>Limited to nominal amount if wound up</p>	<p><b>Charitable Status</b></p> <p>Can register as a charity (optional)</p>	<p>Community-led</p> <p>?</p>
<p><b>Membership</b></p> <p>Directors or defined membership</p>	<p><b>Notes</b></p> <p>Can be adapted to fit most purposes. CLGs registered as charities need to submit a return to both Companies House and Charity Commission</p>	<p>Partnerships</p> <p>?</p>








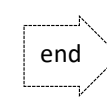
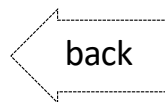
# Industrial and Provident Society

<p><b>Description</b></p> <p>Long-established co-operatives model including Community Benefit Society model (bencom). Set up for members' benefit and profit distributing.</p>		<p>Independent</p> <p>✓</p>
<p><b>Governing Document</b></p> <p>Sponsors' rules or bespoke</p>		<p>Not-for-profit</p> <p>✗</p>
<p><b>Regulator</b></p> <p>Financial Conduct Authority</p>	<p><b>Ownership &amp; Accountability</b></p> <p>Committee or officers manage on behalf of members.</p>	<p>Self-sustaining</p> <p>✓?</p>
<p><b>Liability</b></p> <p>Limited to shareholding</p>	<p><b>Charitable Status</b></p> <p>Can register as a charity (optional)</p>	<p>Community-led</p> <p>?</p>
<p><b>Membership</b></p> <p>Defined by a common bond</p>	<p><b>Notes</b></p> <p>IPs registered as charities need to submit a return to both Companies House and Charity Commission. Democratic: one member, one vote regardless of shareholding.</p>	
		<p>Partnerships</p> <p>?</p>



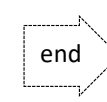
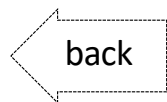
# Charitable Status

Description An <b>Unincorporated Association</b> , <b>CLG</b> or <b>bencom</b> can also register as a charity		Independent 
		Not-for-profit 
Governing Document Memorandum including a selection from 13 charitable objects	Regulator Charity Commission	Self-sustaining 
Ownership & Accountability As per main structure and governance	Liability Limited as per main structure	Community-led 
Charitable Status Registered charity	Membership Trustees or wider membership	Partnerships 
Notes Can hold assets and can be 'asset locked'. <b>Very difficult to un-register.</b>		



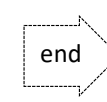
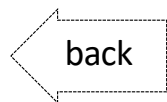
# Community Interest Company

<p><b>Description</b> Established in 2004 as a legal form for social enterprises as a 'light touch' regime.</p>		<p><b>Independent</b> ✓</p>
<p><b>Governing Document</b> CIC Regulator's model</p>		<p><b>Not-for-profit</b> ✓ &amp; ✗</p>
<p><b>Regulator</b> CIC Regulator at FCA</p>	<p><b>Ownership &amp; Accountability</b> Directors manage (on behalf of members if any)</p>	<p><b>Self-sustaining</b> ?</p>
<p><b>Liability</b> Limited to nominal amount if wound up</p>	<p><b>Charitable Status</b> Can not register as a charity</p>	<p><b>Community-led</b> ?</p>
<p><b>Membership</b> Directors or defined membership</p>	<p><b>Notes</b> CIC submit an annual community benefit statement and can be 'asset locked' but the Regulator seldom acts leading to increasingly widespread abuse.</p>	<p><b>Partnerships</b> ?</p>

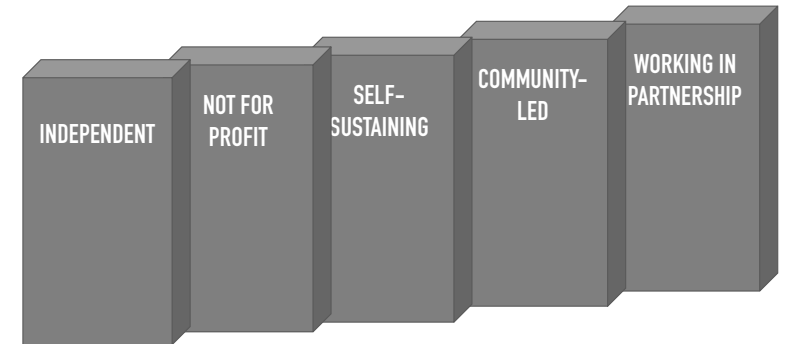


# Charitable Incorporated Organisation

<p><b>Description</b> Established in 2012 as a ready-made corporate structure for charities.</p>		<p>Independent</p> <p>✓</p>
<p><b>Governing Document</b> Charity Commission 'Foundation' or 'Association' models</p>		<p>Not-for-profit</p> <p>✓</p>
<p><b>Regulator</b> Charity Commission</p>	<p><b>Ownership &amp; Accountability</b> Trustees manage (on behalf of members if any)</p>	<p>Self-sustaining</p> <p>?</p>
<p><b>Liability</b> None or limited to nominal amount if wound up</p>	<p><b>Charitable Status</b> Incorporated charity</p>	<p>Community-led</p> <p>?</p>
<p><b>Membership</b> Trustees or defined membership</p>	<p><b>Notes</b> CIOs submit an annual return to the Charity Commission but not Companies House. Foundation model has no accountability beyond its own Trustees.</p>	<p>Partnerships</p> <p>?</p>



# Membership



## Why broaden membership?

**Greater independence** – less reliant on particular funders or benefactors

**Greater peer scrutiny** – prevents mission drift

**More sustainable** – in terms of renewing interest and board membership

**More accountable to the community** – more democratic, more representative, more diversity and increases dialogue

**Builds partnerships** – encourages collaboration with like-minded individuals and organisations

**Builds local support** – allows local people and organisations to demonstrate their support for your work

**Attracts investment** – should make funders more willing to support



# Membership Categories

(referred to as “classes” in the governing document)

These might include:

- Individuals
- Charitable and Voluntary Organisations
- Private Companies (corporate membership)
- Associates (or “informal” members non-voting, “fellow travellers”)

In all cases these must be organisations or individuals who support your aims and objectives.



# Why change HCT's governing documents?

- Sections of the text may be no longer relevant
- Articles may be out of step with current practices or arrangements
- To incorporate current best practice
- To address any change of purposes needed to accommodate the move towards being an infrastructure organisation



# Changing your Governing Document

You can change your organisation's governing document yourself if either:

- your governing document specifies that you have 'the power' to make the change
- the law (for example, the Charities Act or the Companies Act) allows you to make this kind of change



# Changing your Governing Document

## Permissions

If you are changing your company's objects, you need to notify Companies House (online form **CC04**).

If your company is a registered charity, you'll need to get the Charity Commission to approve 'regulated alterations' to your articles of association.

These are changes to:

- your company's purposes
- what happens to its property on winding up
- its rules on paying a trustee or someone connected to them from its funds
  - essentially these are changes to the **MEMORANDUM** rather than the **ARTICLES**

(If appropriate, you must get written consent from the Charity Commission before you agree a special resolution to make any of these changes at a general meeting.)

<https://www.gov.uk/government/publications/notify-the-change-of-companys-objects-cc04>



# Changing your Governing Document

## Procedure

Any changes to your governing documents must be agreed as a 'special resolution' at a general meeting\*.

(\* for HCT this would need to be a **Special** or **Annual General Meeting**)

You must send a signed copy of the resolution along with a PDF of your amended articles to **both the Charity Commission and Companies House within 15 working days** (this can be done online).



# Changing your Governing Document

## Limitations

The existing governing document is legally sound – you need to be careful not to veer too far away from it.

Changes to the memorandum and objects will incur scrutiny from Companies House and the Charity Commission – best not be radical.

Your consultant is not a legal expert and can only recommend changes. It is up to the trustees to implement them.



# Changing your Governing Document

## Scope

### MEMORANDUM

- Remove unnecessary or outdated text
- Revise purposes regarding support for the voluntary sector

### RULES

- Clarify (establish?) membership criteria and application process

### ARTICLES

- Review quorum for general meetings (see **RULES**)
- Review the number of trustees, rotation, quorum for meetings and appointment process
- Review appointment of officers



# Changing to a Charitable Incorporated Organisation (CIO)

## **Convert your charitable company to a CIO**

Registered charitable companies can apply to the Commission and use a simple legal process to convert to a CIO, which means that the charity continues to exist but in a different form.

You should be able to keep the charity's existing name and keep its charity number. You should also be able to keep the charity's existing bank accounts.

In most cases the new CIO should receive any gifts left to the original charitable company.

Following conversion, your charity will face different reporting and accounting requirements.

<https://www.gov.uk/guidance/change-your-charity-structure#change-your-unincorporated-charity-to-a-cio>



# Changing to a Charitable Incorporated Organisation (CIO)

## Purposes

Your CIO constitution must remain as near to the model as possible.

As the CIO will 'replace' your charitable company, its purposes must be the same as your charity's purposes.

If you use this process to review and change the purposes of your charitable company, **do this first, before applying for conversion.**



# Changing to a Charitable Incorporated Organisation (CIO)

## Decision-making

Members of the charitable company must pass two resolutions:

- the first on the decision to convert to a CIO and
- the second on the decision to adopt the proposed constitution of the CIO

## Apply to the Charity Commission

You will need to include:

- Copies of the members' resolutions.
- A copy of the proposed CIO constitution show any changes you have made to the model constitution.
- The completed **Trustee Declaration Form**.



# The Next Steps

Outputs and slides from this workshop will be made available to participants by email and via the online portal:

<https://visualbusinessplanning.org.uk/content/highlife-centre-trust-governance-support>

Evaluation – link to survey to be circulated.

The current governance support programme closes.

Option to arrange further support for making changes to HCT's governing documents and/or changing the governance structure to a Charitable Incorporated Organisation.

