

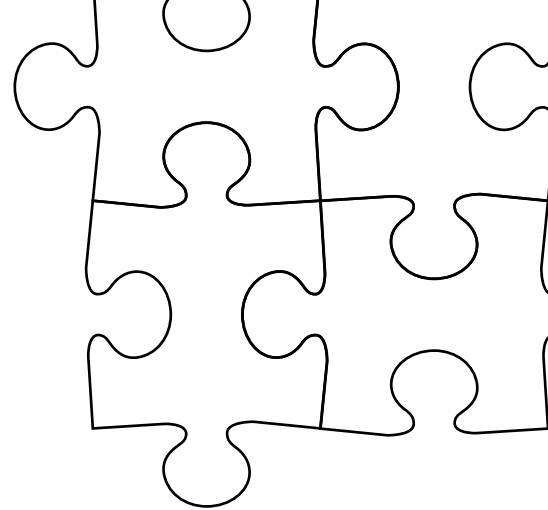
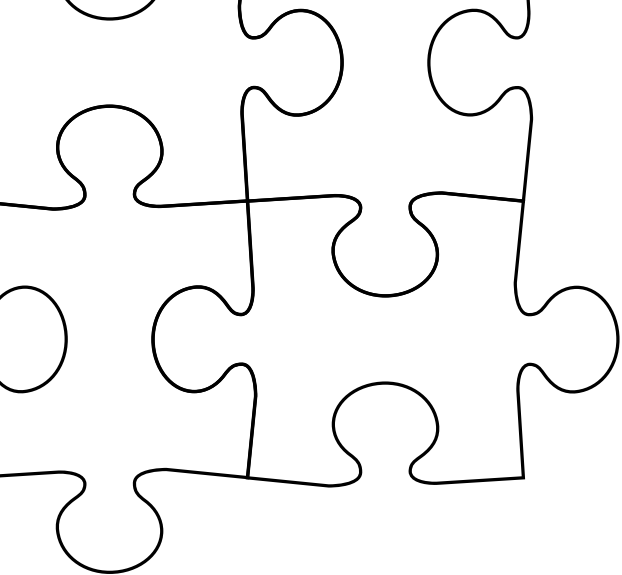
GETTING STARTED

An overview of
legal structures
and other
governance
essentials for
VCFSE
organisations

**COMMUNITY
ACTION
SUFFOLK**



Strengthening the voluntary and community sector



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**COMMUNITY
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1. Before you start

This is a quick guide designed to answer some of the most frequently asked questions about setting up a Voluntary, Community, Faith and Social Enterprise (VCFSE) organisation or group. But before you start, you might want to ask yourself some questions.

WHAT

- is the main purpose of setting up?
- need is not being met that you want to be able to meet?
- resources do you have available?
- else do you need to get started?

WHO

- do you want to benefit or support?
- is going to support you and be involved in the organisation?
- else is out there doing this?
- could you work in partnership with?

HOW

- are you going to make it happen?
- much time do you available?
- will you know if you are being successful?
- are you going to let people know you exist?

These questions should help you come up with an initial plan, which can then be turned into a full **business plan** (please refer to **page 9** for more information).



2. Legal structures

For new organisations, deciding which legal structure to adopt can cause a lot of confusion. There are many points to consider when choosing a structure, but the main deciding factor is often the level of liability for the trustees, as you will see below.

It is also important to note that a charity is not a type of legal structure, but an organisation can have **charitable status** if it meets the **public benefit requirement**. The definition of what is charitable or not is not always clear, but the Charity Commission has very specific guidance about this - [click here](#) to see it.

Your organisation's legal structure is defined by its **governing document** (the legal document that creates the charity and says how it should be run). There are many types of governing document (constitution, trust deed, etc.) with various levels of complexity, but the function is the same: serving as a rulebook. You can find model governing documents and further guidance about drafting your own on the Charity Commission's website ([click here](#)).

The first point to consider is whether you want your organisation to be **unincorporated** or **incorporated**.



An **unincorporated** organisation is run by a committee, and the individuals that run it are responsible for any liabilities that it may incur. It is the easiest form to set up and is relatively informal.



If you choose an **incorporated** structure, this will mean the organisation has a separate legal identity and therefore the board will be protected against liabilities – so long as they have acted legally and with due care.

Unincorporated structures

For many small charities and community groups, adopting an unincorporated structure is the easiest way to start. You can either choose to set up an **Unincorporated Association** or a **Charitable Trust**, which are explained in more detail below.

Although the level of protection is not the same as that of an incorporated charity, these structures are more than suitable if you don't need to enter into contracts (lease, paid staff, loans, etc.), your income is low and your activities are of relatively low risk. You could also choose to start as an unincorporated organisation and decide to incorporate later. However, if you are expecting fast growth and higher levels of liability in the future, it might be worth choosing an incorporated structure from the start.

Key points about unincorporated structures:

- Very easy to set up
- No need to register with the Charity Commission unless your annual income is over £5,000 ([click here](#) for more information). You can still be considered a charity regardless of registration if you have charitable purposes and fulfil the public benefit requirement.
- Governing document can easily be updated
- No separate legal identity, members in the Management Committee are personally liable
- The lack of external regulation (for unregistered charities) may be an issue for some funders and stakeholders

Key differences between the two structures:

	Unincorporated Association	Charitable Trust
Governing document	Constitution	Trust Deed
Membership	Wider group (voting members + Management Committee)	Narrow group (trustees are the only members)
Charity status	Can be charitable, but can also be set up to benefit only its members	Must be charitable
Examples	Clubs, residents' associations, small voluntary groups	Grant-making bodies, village halls

Incorporated structures

For those wanting to set up organisations that will be fairly large in terms of activities and assets, or those who simply want limited liability as trustees, an incorporated structure is probably the best option. The process of incorporation means creating a separate legal identity. As a charity, you can do this by registering a **Charitable Incorporated Organisation (CIO)** or a **Company Limited by Guarantee (CLG)**.

Key points about incorporated structures:

- Can own property, employ staff, and enter into contracts in its own name
- Limited liability for members and trustees
- Both membership models available - trustees/directors can be the only members (foundation model) or they can have voting members as well (association model).
- Reporting obligations
- Certain information must be made publicly available
- Registration process can be lengthy

Key differences between the two structures:

	Charitable Incorporated Organisation (CIO)	Company Limited by Guarantee (CLG)
Governing document	Constitution	Memorandum and Articles of Association
Regulator(s)	Charity Commission	Charity Commission + Companies House (dual registration)
Registration	Can be registered with the Charity Commission regardless of income	£5,000 minimum threshold for registration with the Charity Commission, but quick incorporation process with Companies House
Charity status	Automatic	Only if purposes are solely charitable

Social enterprises

The structures described in the previous pages are the most commonly used by charities, but you can also choose to set up an organisation that is not necessarily charitable but has a social mission and focuses on trading as its main source of income. This is known as a **social enterprise**.

A social enterprise is not a type of legal structure but a way of doing business – for example, you could be a sole trader, or a charity, and a social enterprise at the same time. However, most social enterprises are set up under a structure that offers flexibility in terms of trading while still maintaining their social aim. They can be a **Community Benefit Society (BenCom)** or a **Cooperative** for example (for more information on these structures, please visit the links on page 10), but a **CIC** is the most popular option for social enterprises.

Community Interest Company (CIC)

A CIC is essentially a special type of limited company that has compulsory clauses in its governing document to ensure its main purpose is to benefit the community – although it is not a charity. The main difference in comparison to a standard limited company is what is known as the **asset lock**, which means that the assets of a CIC cannot be transferred to private individuals or other companies (apart from another CIC or a charity). This piece of regulation also helps CICs have access to certain funding opportunities that would otherwise not be available to them as limited companies.

A good way to understand a CIC is to compare it to a Charitable Company Limited by Guarantee:

	CIC	Charitable Company
Charitable status	No	Yes
Regulators	Companies House + CIC Regulator	Companies House + Charity Commission
Company model	Can be limited by guarantee or by shares*	Can only be limited by guarantee*
Directors/trustees can get paid	Yes, although there is a cap	No
Trading	Can trade like any normal company	Can only trade to help further its charitable objects, and there is strict regulation from the Charity Commission
Tax reliefs	No	Yes

* A company limited by shares is owned by shareholders, who can benefit financially from it, so it cannot be a charity. On the other hand, a company limited by guarantee does not have shareholders and is usually not for profit, which is why it can have charitable status.

3. Other foundations to consider

In short, governance is the way an organisation is run and controlled. It involves having systems and processes in place to ensure that the organisation achieves its aims, follows the law and is accountable and transparent to the people who support and benefit from it.

Policies and procedures

It is essential for your organisation to have policies and procedures in place to protect the governing body and the people that run or use your services, and to deal efficiently with any situations that may arise.

Below are some examples of policies and procedures that you might need to have in place to help embed strong governance in a sustainable and enduring organisation. The exact list will depend on what your organisation/group wants to achieve and the people it is being set up to benefit.

- Safeguarding children and adults
- Behaviour and Code of Conduct
- Confidentiality
- Equality, Diversity and Inclusion
- Health & Safety
- Risk Assessment
- Complaints/Grievance
- Recruitment
(including volunteers and trustees) and compliance with DBS
- Finance

The **CAS Quality Framework** has tailored levels of support including the **HealthCheck Plus** and **Quality Standard**, which contain additional guidance and example documents to help you develop and embed these policies and procedures.
[Click here to find out more](#)

Business plan

A business plan is a document that outlines the goals, strategies, resources and financial projections of an organisation. It is not only useful for starting a new venture, but also for managing and growing an existing one. Though you might not think of a charity as a business, a business plan can help voluntary organisations in many ways, such as:

- ✓ Clarifying your **mission and vision** and how you intend to achieve them.
- ✓ Identifying the **needs and expectations** of your beneficiaries, funders, stakeholders and partners, and how to meet them.
- ✓ Assessing the **strengths, weaknesses, opportunities and threats (SWOT)** of your organisation and its external environment, and how to address them.
- ✓ Setting realistic and measurable objectives and indicators to monitor and evaluate the progress and **impact** of your organisation.
- ✓ Planning the activities, resources and **budget** required to deliver any services or products, and how to generate income and manage costs.
- ✓ Communicating your **value proposition** to potential supporters, donors, investors and customers, and how to market and promote it.

A well-researched business plan will demonstrate diligence on your part, which can build trust and credibility with funders and stakeholders.

Writing a business plan can be challenging, especially for small organisations that may not have the time, skills or resources to do so. However, your business plan should be tailored to your needs as an organisation, and drafting a simple plan is already a good start. The key point to remember is that the process of planning and having meaningful discussions with your stakeholders is more important than writing the document itself, which is just the culmination of the process.



4. More information and support

Charity Commission guidance

[gov.uk/guidance/charity-commission-guidance](https://www.gov.uk/guidance/charity-commission-guidance)

NCVO (The National Council for Voluntary Organisations)

[ncvo.org.uk](https://www.ncvo.org.uk)

The Resource Centre

resourcecentre.org.uk/information

Social Enterprise UK: How to start a social enterprise

socialenterprise.org.uk/get-involved/start-a-social-enterprise

The Chartered Governance Institute

[cgi.org.uk](https://www.cgi.org.uk)

Directory of Social Change

[dsc.org.uk](https://www.dsc.org.uk)

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