

Briefing

Charitable Incorporated Organisation (CIO)

The Charitable Incorporated Organisation (CIO) will enable the creation of a new corporate form specifically for charities. The introduction of CIOs was part of the changes that were included in the Charities Act 2006.

CIOs will be registered with the Charity Commission, rather than with Companies House like existing Companies Limited by Guarantee are. There will no longer be any requirement for dual registration with the Charity Commission to be a registered charity, and also with Companies House to have a charitable corporation. This will remove the requirement for trustees and Directors to have to comply with Companies Act legislation as well as charity law.

What else is different?

CIOs will have charity trustees rather than directors.

CIOs will have an asset lock – so their assets can only be used for the benefit of the community. Surpluses and assets can't be distributed to members. This is the same as the provisions that apply to Community Interest Companies (CICs).

There will be two types of CIO – one for charities where the trustees are the only members, and one where there are trustees as well as a group of members too.

What is the same?

Just like existing charitable companies, CIOs will be separate legal entities and members will have limited personal liability (usually £1) or no liability if things go wrong.

CIOs will still have to comply with the Charity Commission reporting requirements.

The advantages of a CIO:

The new CIO will have specific provisions that make it beneficial when compared to an existing charitable company:

	New CIO form	Existing charitable company form
Regulation	Solely regulated by the Charity Commission	Regulated by the Charity Commission and also Companies House
Annual filing requirements	File annual accounts, reports and returns with the Charity Commission	File annual accounts, reports and returns with the Charity Commission and Companies House
Accounting requirements	Will follow Charities Act 1993 regulations, so small CIOs can prepare receipts and payments accounts	Must follow Charities Act 1993 and also Companies Act 2006 requirements for preparation and presentation of accounts
Constitutional and governance changes	CIOs will have reduced reporting requirements	Must report changes to the Charity Commission and also Companies House
Cost	Charity Commission will not charge the CIO for filing documents	Additional costs as Companies House charge to file certain documents
Model constitutions	Simpler format for model constitutions	Additional governance requirements for companies

Your questions answered:

We are thinking of setting up a charitable company. Why would we choose a CIO?

Anyone setting up a CIO will only have to register their CIO with the Charity Commission, and not with Companies House as well which is required for charitable companies. The table above compares a CIO with a charitable company, and there is clearly a reduced regulatory burden.

We are a registered charity that is also a company limited by guarantee. How will this affect me?

You can either choose to maintain your existing corporate form – which means you will still have to follow Company Act legislation, meet the requirements of Companies House, as well as the reporting requirements of the Charity Commission, or you can choose to convert to a CIO. The actual procedure has not been confirmed yet, but is expected to be a simple and straightforward process, with no requirement to transfer assets as no new legal entity will be created.

We are an unincorporated charity. Does any of this apply to us?

For existing charities that are unincorporated the introduction of CIOs will make no difference. Unincorporated charities will remain simpler to set up and run, as charity trustees of a CIO will have extra responsibilities.

The table below summarises the differences:

	New CIO form	Existing Unincorporated Charity
Registers	Charity trustees will be required to maintain a register of charity trustees, members and any charges over assets	No requirement to maintain formal registers
Annual returns and accounts	Will be required to submit accounts and annual returns regardless of income to Charity Commission	No requirement to file accounts if income is less than £25,000 and no requirement to complete an Annual Return if income is less than £10,000 (must complete Annual Update to keep details up to date)
Regulation	Charity trustees will have stricter regulation, including some criminal offences if they fail to follow legislative requirements.	Only Charity regulations apply

We are unincorporated – can we convert to a CIO?

Unincorporated charities cannot convert directly to a CIO. They would need to change the legal structure to a CIO structure, and this will involve setting up the new CIO, transferring the assets from the unincorporated charity to the CIO and winding up the unincorporated charity. The new CIO will have a new registered charity number as it is a new legal entity. This would be beneficial where unincorporated charities wish to limit the liability of their trustees or are obtaining contracts for service delivery that require a separate legal entity.

We are a CIC – can we convert to a CIO?

Yes, it will be possible for CICs to convert to CIOs. This might be beneficial if you are looking at increasing your grant income rather than trading income, and wish to take advantage of the tax exemptions that apply to charities.

What's this asset lock?

Simply put, it's a way of making sure CIOs' resources aren't misused, and that the community that is supposed to benefit from the CIOs activities really does. This will be introduced by adding certain clauses to the governing document. If a CIO wants to give away assets or surpluses they must be transferred to another asset locked body (ie another CIO, charity or a CIC). Otherwise the assets must be transferred at their market value for full consideration.

When will CIOs be available?

CIOs were planned to be available from April 2010, but it will now be later than this.

How can we convert?

The Charity Commission will be issuing detailed guidance and forms to enable existing charitable companies to convert, as well as to help set up new CIOs.

For further information on CIOs, the Charity Commission issued initial guidance:
<http://www.charitycommission.gov.uk/registration/charcio.asp>

Contact us

If you would like to discuss how the introduction of CIOs may affect your organisation please email: info@harrisaccountancy.co.uk, telephone: **07530 428 738**, or visit www.harrisaccountancy.co.uk and submit an enquiry

