

It is important for a group to be aware of its responsibilities and obligations, and how these are to be fulfilled. Groups need a set of rules that state what they're trying to achieve, and how they're going to go about achieving this. This is governance.

Where to start

If you're an established group, locating a copy of your governing document is the first step in being aware of what your responsibilities and obligations are.

If you're a group that's about to formalise, then you need to understand what to include in the rules of your organisation and what the legalities of these will be.

Know your Governing Document

Whether it's referred to as a Constitution, Memorandum, Trust Deed or Rules, it's important for all Committee members to have a copy, and more so understand what it means.

Know what type of group you are

It's important to know what type of group you are; i.e. what the legal status of your group is. This means whether you're unincorporated or incorporated, if you're for public benefit or private benefit (charitable or non-charitable).

This will have implications on the activities your group can undertake, such as restrictions on trading, remuneration of those running the organisation, membership and voting rights, shareholding and dividends and tax implications.

The structures available

Legal Structure	Governing Document	Governing Body
Unincorporated		
Unincorporated Association	Constitution	Committee of Management
Charitable Trust	Trust Deed or Declaration of Trust	Committee or Board of Trustees
Incorporated		
Company Limited by Guarantee	Memorandum and Articles of Association	Board of Directors
Industrial and Provident Society	Rules	Directors
Community Interest Company	Memorandum and Articles of Association	Directors

The type of legal structure your group adopts denotes the type of Governing Document you are bound by, and what those in charge are called.

The type of legal structure also denotes the amount of personal liability those in charge face.

The Governing Document

- New groups, write it
- Existing groups, locate it

Know your Governing Document

- Copy to all Committee members
- Read it
- Understand it

Know what type of group you are

- Public or private benefit?
- Unincorporated or incorporated

Know who is in charge

- Know who makes the decisions
- Know the responsibilities and implications of being in charge

Know who is in charge

Everyone needs to know who is in charge, from the members of the group to possible investors. There are different names for the group of people in charge

- Executive Committee
- Management Committee
- Trustee
- Director

Whilst the title can give some indication to the type of organisational legal structure, the basic thing to know is that the people who are in the group are the ones in charge, and ultimately responsible for all decisions made and actions carried out and where liabilities lie.

Unincorporated and incorporated

As mentioned overleaf, knowing the legal structure of your group is important, as is being aware of the implications the particular status has.

An unincorporated group has no legal identity, which means in law it can't enter into contracts or agreements, and it can't sue or be sued. It needs others to do this on its behalf, which is where Trustees and Committee members come into play. The ones who make the decisions are personally liable. What does this mean? In short, personal liability is unlimited, so if those in charge of an unincorporated group make a decision that ends up with the group owing money, they are personally responsible for repaying that money.

An incorporated organisation by contrast has a legal identity, which means in law it can enter into contracts and agreements. It can also sue or be sued in its own right. The liability of those making the decisions is limited, to the extent that they were made properly within the scope of their knowledge and the advice that they sought.

Policies and procedures

To help keep things running smoothly and to keep abreast of changes in legislation, it is important to have policies and procedures in place.

These can include:

- Roles and responsibilities of Trustees
- Developing a Trustee induction programme
- The Trustee as an employer
- What makes an effective Board
- Holding effective meeting
- Health and Safety
- Safeguarding Children, Young People & vulnerable adults

For more information please contact us at Action with Communities in Cumbria on Tel: 01768 840827 or visit our website: www.cumbriaaction.org.uk

Supporting communities ... championing rural issues

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Regulatory bodies

The different legal structures are regulated by the following bodies:

Charity Commission

- Charitable unincorporated associations
- Charitable Trusts
- Charitable Company Limited by Guarantee

Companies House

- Charitable Company Limited by Guarantee
- Community Interest Company

Financial Services Authority

- Industrial and Provident Society

Each of these bodies has different reporting requirements, so it's important to know which body regulates your group's activities, and fully understand these requirements. Charitable Companies Limited by Guarantee fall under dual regulation, whereby they must make submissions to both the Charity Commission and Companies House.

Regular reviews

To ensure that your policies and procedures are kept up to date, it is important to review them at appropriate intervals. The frequency of these review intervals can depend on the nature of your group and its activities, some can be set by the regulators.

The first meeting after the AGM (Annual General Meeting), not at the AGM itself, is an opportune time to review policies and procedures. This meeting can also serve as part of an induction for new Committee members, or a refresher for long serving members following changes in legislation.

Useful websites

www.cumbriaaction.org.uk

www.communitymatters.org.uk

www.acre.org.uk

www.thirdsectorcumbria.org.uk

More information

ACT Development Officers can offer further support and advice. A range of additional Guidance Sheets are also available on our website.

