

## **CVS Falkirk Resource Library Scottish Charitable Incorporated Organisation (SCIO)**

A Scottish Charitable Incorporated Organisation (SCIO) is a legal structure which has been purpose built for the charity sector in Scotland. It provides limited liability and a separate legal identity to organisations which want to become charities but do not want or need the complex structure of company law. This means that even the smallest charity can access the benefits of incorporation – including limited liability and legal capacity.

It is only available to charities with a principal office in Scotland and is regulated by the Office of the Scottish Charity Regulator (OSCR) and subject to the Charities and Trustee Investment Act (Scotland) 2005.

### **How is it governed?**

There is no standard format for a SCIO constitution, but some basic elements are required:

- a SCIO should have two or more members and three trustees (in the case of a single tier SCIO the members can also be the trustees)
- it should have the name, purposes, a registered office in Scotland, and include any restrictions on powers
- it should list meeting procedures (convening, recording, quorum, voting, resolution)
- it should list membership rules (eligibility, appointment, withdrawal) and trustee rules (appointment, withdrawal, remuneration restrictions, conflict of interest)
- it should list the purposes for which surplus assets may be used on dissolution

### **Two tier or single tier?**

There are two structures available for the SCIO, two tier and single tier.

The two tier structure is similar to that of a voluntary association and a company limited by guarantee where it is the membership of the organisation that appoints trustees and have decision making powers.

The single tier structure is similar to a trust, in that the trustees appoint new trustees and don't have to answer to a wider body.

Both structures require at least two members (in the single tier SCIO the members and the trustees are the same people), and must have at least three trustees.

Advantages	Disadvantages
Provides the key benefits of becoming a company, such as a defined legal entity and limited liability whilst removing some of the associated burdens.	Existence is dependent upon charitable status. Loss of charitable status would mean that the SCIO would cease to exist.
Can hold property, enter into leases and other contracts, employ people, etc, in its own name.	Some changes must be notified to OSCR, and some require prior consent, eg change of name or charitable purposes.
Less administration – no requirement to notify any regulator about appointments or resignations of board members.	Members are subject to some of the same duties as charity trustees, specifically, they must act in the interests of the SCIO, and seek, in good faith, to ensure the SCIO acts in a manner which is consistent with its charitable purposes.
Unlike company law, where the volume of legislation and case law can be overwhelming, the law relating to SCIOs is self-contained and very manageable.	There is a duty to keep and supply a register of charity trustees and members (if an organisation has a lot of fluidity in its membership, eg. a Student Union, a SCIO may not be the most appropriate legal form).
It provides creditor protection and reassurance for those entering into contracts.	Cannot convert or amalgamate with non-SCIO, though assets can be transferred to a non-SCIO charitable organisation.
Only needs to be registered with OSCR, unlike a charitable company, which also needs to register with Companies House.	
Is subject to the same accounting thresholds as unincorporated charities, so may not have to produce fully accrued accounts.	
Generally regarded by funding bodies and public agencies as a more “stable” structure than a voluntary association.	

## **Charitable status?**

A SCIO can only be a charity. OSCR is the regulator of a SCIO's legal form, not just its charitable status. Removal from the Register equals dissolution.

## **Does it have a legal status, distinct from those who run it?**

Yes. A SCIO can hold property, enter into leases and employ people in its own right. Title to land and buildings will be held in the name of the SCIO (an advantage in terms of succession). Members' and trustees' liability is limited in most cases, and they are not liable to contribute if the SCIO is wound up.

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