



Governance Options

New Independent Body

There are a number of governance options available when considering setting up a new independent body for the purposes of contracting or working collaboratively to delivery public services.

Most common options available:

- Company Limited by Guarantee
 - Trading Company or Subsidiary (Company Limited by Shares)
 - Industrial and Provident Society (IPS)
 - Community Interest Company (Social Enterprise).
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- **Company Limited by Guarantee**

A Company Limited by Guarantee is incorporated and can own land, property and enter into contracts in its own name. A company is viewed by the Charity Commission as a legal person and is treated as separate from its members and directors. The directors are agents of the company and as such are not normally personally liable for its debts.

The company will also have 'limited liability' which means that its members are normally only liable for debts of the company to the extent which they have undertaken to guarantee them. For example, a memorandum and articles of association will have a minimum £5.00 amount stated.

- **Industrial and Provident Society (IPS)**

An IPS is a less common form of incorporated organisation. If your organisation is already a co-operative or mutual society or a business conducted for the benefit of the community, registering as an IPS might be the right step. Registering as IPS gives you greater protection of original rules and the ability to advertise and issue loan stock to the public. The IPS structure is available only to bona fide cooperative societies, and to voluntary organisations carrying out an industry trade or business for the benefit of the community. A co-operative society is not obliged to register as an IPS and can register as a Company Limited by Guarantee.

- **Trading Company or Subsidiary (Company Limited by Shares)**

If your organisation is considering setting up a trading company it must be after you have done a proper evaluation of its chances of success and failure. This evaluation should include preparing a business plan on a renewable basis. Your organisation will become a 'parent' and the business plan will enable you to demonstrate that your organisation has acted in an appropriate and responsible way in deciding to set up the trading company. Your accounts and affairs of the trading company must be kept completely separate to those of your organisation. SCVO parented a trading company which is incorporated and a company limited by shares. Surpluses from the trading company may be redistributed to SCVO. If you want to find out more about SCVO Trading Company and how it operates, contact Trevor Swingler, Lifework on 0121 565 8930 or email: Trevor@lifework.uk.com

- **Community Interest Company**

A Community Interest Company (CIC) is a non-charitable, not-for-profit organisation pursuing community benefit (sometimes known as a 'social enterprise'). CICs need to satisfy a 'community interest test' and demonstrate that its purposes are in the interests of the community and are accessible to a wider public. If your organisation is legally charitable already, you will not be able to register as a CIC. However, you can establish a CIC as a subsidiary to your charitable or non-charitable organisation.

SCVO factsheet, *Collaborative Working Models: New Independent Body* illustrates the model and provides further information.

Lead Agency

If your organisation adopts a lead agency approach to public service delivery, your governing document must allow you to carry out the work. Your organisation will most likely be incorporated, e.g. Company Limited by Guarantee (see *Collaborative Working Models: New Independent Body*) to be lead agency. You will be obliged to provide the following:

- A consortium agreement which is an overarching set of contractual terms and conditions, to which your partners will agree to sign up as associate or independent contractors
- Detailed service contracts for each organisation, e.g. payment terms, delivery standards
- Contracts with liability for contractual compliance resting with each consortium partner clearly stated
- A declaration opportunity to all consortium partners that is not the intention of the parties to create a legal partnership

- Indication of how consortium profits will be shared on a contractual share basis and accrue separately to each party

SCVO fact sheet, *Collaborative Working Models: Lead Agency* illustrates the model and provides further information.

External Partner – Non delivering

In order for your organisation to become an external partner (non-delivering) it will most likely be incorporated, e.g. Company Limited by Guarantee (see *Collaborative Working Models: New Independent Body*) but any new activity must be within the existing powers and objects of your organisation to deliver public services.

It's generally accepted that within this model your organisation will be part of a consortium in name only. However, you will still need to provide a consortium agreement and service contracts (*Collaborative Working Models: Lead Agency*). It is helpful to think of this model as a supply chain with the external partner, sub-contracting out to large suppliers, who in turn sub-contract out to small suppliers.

If you are considering this model you might wish to keep the following in mind:

- You will need to supply a joint working agreement, to which your sub-contractors will agree to sign up.
- You are required to produce detailed service contracts for each organisation, e.g. payment terms, delivery standards.
- You will most likely need to establish a management team for the contract and representatives of the commissioning body, e.g. Sandwell MBC, might wish to sit on your organisations management team for the contract.
- The focus is on contract management not consortium management.

SCVO fact sheet, *Collaborative Working Models: External Partner – Non-delivering* illustrates the model and provides further information. Need to know more? Check out the Collaboration area of the SCVO website, or contact Martin Drayton, Project Officer on 0121 565 8939.

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