

Constituted Community Groups

To access funding from the Scottish Rural Development Programme, a community group must be “properly constituted”. This briefing is intended to help groups ensure they satisfy this requirement, and to help those involved in assessing the eligibility of applicants.

What is a constituted community group?

People coming together to form a community or voluntary organisation to pursue objectives in which they have an interest will usually have a written agreement between the organisation and its members. This is frequently referred to as the organisation’s constitution. There are various ways of constituting an organisation and the most commonly used legal structures by community and voluntary organisations are:

- Voluntary association
- Company limited by guarantee
- Trust



Voluntary association

By far the most common kind of constitution for voluntary and community groups is the voluntary association (sometimes called unincorporated association). It will typically be titled the Constitution of (name of Community Group) and have a set of rules that govern the organisation. This might be simply a couple of pages with a dozen clauses but could also run to ten or more pages and 70 or more clauses.

Company limited by guarantee

This legal structure is becoming more common, particularly for Development Trusts and community and village halls. The constitution of a company limited by guarantee will be split into articles of association and memorandums of association. These are typically lengthy documents running to a dozen or so pages and 80 or more clauses.

Scottish Charitable Incorporated Organisation (SCIO)

The SCIO is a new legal form for registered Scottish charities and is available from 1 April 2011. It is a corporate body which is a legal entity able to enter into contracts, employ staff, incur debts, own property, sue and be sued.

There are important differences between being a SCIO and being any other type of body with charitable status in Scotland. Before applying to become a SCIO, organisations need to be fully aware of the implications that this form of charitable status brings. Further information can be obtained from the OSCR website publication, [SCIOs: A Guide](#) and [SCIOs: FAQs](#)

Trust

A trust will be created by a trust deed. A number of trusts were originally created in the context of a particular individual gifting a building (or the site for a building) for the benefit of the local community. For this reason it is fairly common for village and community halls to have a trust which holds the hall’s title or lease. These may be more difficult to identify as simply having the word “trust” in the organisations name does not make it a trust in the legal sense. Trust deeds will usually be quite old and refer to trust purposes and trustees. The document will often contain provision for transferring the property to certain named individuals, with a statement that they and their successors must hold the property as trustees for

certain specified purposes. There may be provision for the trustees to appoint a management committee elected from the local community to manage the hall (which will often have its own constitution!).

Whatever the legal structure of an organisation, the actual form and content of the constitution is largely within the organisation's control. This means that there are many different types of constitutions with each organisation having their own constitution which reflects their unique character and needs.

What's in a Constitution?

The basic issues which are likely to be covered by a constitution are:

Purposes and Objects

In simple terms this is a statement of why the organisation exists (eg provision of leisure and recreation facilities, to relieve poverty, to promote youth education). The objects should be distinguished from powers.

Powers

These relate to the organisation's internal administration such as the ability to borrow money, employ staff and the like.

Membership

A constitution should clearly state who is eligible to become a member and any qualifications that may be required.

Structure of Board/Management Committee

This section covers a whole series of issues. Normally those involved in the management or control of the organisation will have been elected or nominated in which case procedures for such appointments should be included in the constitution. Provisions detailing the actual powers and authority which the members have delegated to those in management or control will usually be included.

A word about charitable status

Charitable status is a particular type of legal status that is independent of the legal structure of the organisations. To be a charity, organisations must have charitable objects and meet a public benefit test. There are pros and cons to registering as a charity and not all community and voluntary organisations will choose to pursue it.

For further help

SCVO's website has a section on Governance* which includes a very useful Guide to Constitutions and Charitable Status.

Constitutions are a complicated area so if you have any questions about a particular constitution please contact Sandra Hogg at SCVO by emailing sandra.hogg@scvo.org.uk or phoning 01463 251729.

*<http://www.scvo.org.uk/governance>

The screenshot shows the SCVO website's 'Governance & Structures' page. The header includes the SCVO logo and the tagline 'STRONGER TOGETHER'. A navigation menu on the left lists various topics. The main content area features a 'YOU ARE IN: Home > Governance and Structures' breadcrumb, the page title 'Governance & Structures', and a brief description of the page's purpose. Below this, there is contact information for SCVO and a 'LATEST NEWS & EVENTS...' section with several news items, including 'Merger and Collaboration', 'Trustee Indemnity Insurance', 'SCVO Guide to Constitutions and Charitable Status', 'Evolving Leadership and Governance Forum', 'SCVO legal seminars - presentations', and 'Guidance for a registered charity in Scotland to change into a Company Limited by Guarantee'.