



Department for
Business, Energy
& Industrial Strategy

**Office of the Regulator of Community
Interest Companies: Information and
guidance notes**

Chapter 1: Introduction

MAY 2016

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1.1. Foreword by the Regulator

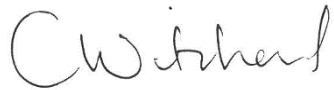
Community Interest Companies (CICs) were first established in the UK in 2005. Since then they have grown considerably, both in number and in the diversity of the activities they undertake. The CIC legal structure supports a wide range of activities, they range from very small local projects to multi-million pound health services, covering all industry sectors and are located in every area of the UK.

CICs are limited companies which operate to provide a benefit to the community they serve. They are not strictly 'not for profit', and CICs can, and do, deliver returns to investors. However, the purpose of CIC is primarily one of community benefit rather than private profit. Whilst returns to investors are permitted, these must be balanced and reasonable, to encourage investment in the social enterprise sector whilst ensuring true community benefit is always at the heart of any CIC. For some CICs this is delivered through the provision of a service to a specific community, for example a welfare service to vulnerable people, in others it will be an activity that generates profits which are used to support a specific purpose such as a running a cafe where all profits generated are used to benefit the community. Each CIC is required to submit on a yearly basis a report detailing the activities undertaken and how these have benefitted the community. This is an important document as it sets out publicly exactly how the CIC has met its obligations to deliver community benefits.

I was appointed as Regulator of Community Interest Companies in September 2015. My role is to make sure the CIC structure is properly understood, and properly used by the social enterprise sector. My approach is light touch. I am here to help companies comply with their obligations as a CIC, to make sure the process of registering a CIC is as efficient as possible and to protect the CIC brand by making sure there is always a genuine community benefit behind any CIC.

Deciding to form a CIC is a major step. The creation of a CIC has a number of significant legal implications. One of the most important of these is the 'asset lock'. This is designed to ensure that the assets of the CIC (including any profits or other surpluses generated by its activities) are used for the benefit of the community. This is a permanent step, which cannot be reversed, and you should make sure you fully understand what this means for you. The purpose of this guidance is to help you determine whether the CIC model is right for your business. Please read these notes carefully. My team are here to help with general information and guidance. However, it is important to remember that they cannot provide legal, accounting or financial advice. Nor can they prejudge whether an application will be accepted before it has been filed.

The CIC model has been proven to work well in its first ten years and I am sure we will see this success continue. I am looking forward to working with people from across the CIC sector, supporting communities throughout the UK.

A handwritten signature in black ink that reads "C. Witchard". The signature is written in a cursive, flowing style.

Ceri Witchard
Regulator of Community Interest Companies

1.2. Legal background and basis of this information and guidance notes

These guidance notes are produced by the Office of the Regulator of Community Interest Companies to assist those who may wish to form a CIC, other stakeholders and those giving professional advice about CICs. The views expressed are those of the Regulator in her capacity as an independent public office holder.

1.2.1. The principal legislation governing community interest companies (CICs)

The principal legislation covered is:

- The Companies Act 2006, subordinate legislation made under that Act, and related legislation, such as, the Insolvency Act 1986. These are generally referred to in this guidance as the “Companies Legislation”, and
- The Companies (Audit, Investigations and Community Enterprise) Act 2004 Part 2 and Schedules 3 to 7 In this guidance this is referred to as the “CAICE Act”.
- The Community Interest Company Regulations 2005. In this guidance this is referred to as the “CIC Regulations 2005”

1.2.2. Links to the legislation

- [The Companies \(Audit, Investigations and Community Enterprise\) Act 2004](#)
- [The Companies \(Audit, Investigations and Community Enterprise\) Act 2004 \(Commencement\)](#) and [Companies Act 1989 \(Commencement No 18\) Order 2004 \(SI 2004/3322\)](#) brought the provisions relating to the appointment of the Regulator of Community Interest Companies into force on the 1 January 2005 and the remaining provisions relating to CICs on 1 July 2005.

- [The Community Interest Company Regulations 2005](#) contain detailed provisions relating to CICs. The CIC Regulations 2005 came into force on 1st July 2005.
- [The Community Interest Company \(Amendment\) Regulations 2009](#), in the main, contain provisions to enable Scottish charities to convert into a CIC; for a CIC to convert into a permitted registered society; and some minor changes to the statutory articles in Schedules 1, 2, & 3 of the Regulations.
- [The Companies Act 2006](#)
- [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008](#) contains consequential amendments relating to the CIC report.
- [The Companies Act 2006 \(Consequential Amendments Transitional Provisions and Savings\) Order 2009](#) contains consequential amendments to bring the CIC legislation in line with Company legislation.

1.2.3. Disclaimer

These notes seek to interpret and explain the legislation that relates specifically to CICs and give guidance on its application. They are not a full statement of the law, which is set out in the legislation mentioned above, and they are not legally binding. While they represent the CIC Regulator's current considered views on the topics covered in them at the time of writing, those views may change, and any such change may not always be immediately reflected in the guidance. They will be updated from time to time in the light of experience, comments received and changes in the law.

In particular, the [Companies Act 2006](#) replaced much of the Companies Act 1985. This necessitated changes to CIC legislation to take into account changes in the underlying company law rules.

Further updates and editions of this guidance will keep you informed of the impact of these changes on CICs, which will be matters of process rather than substance.

We do not intend to issue hard copies, however you are free to download the material and make use of the forms.

It is our policy to obtain permission to link to other web sites. We are not responsible for the content or reliability of the linked web sites. Listing should not be taken as

endorsement of any kind. We cannot guarantee that these links will work all of the time and we have no control over the availability of linked pages.

1.2.4. Contact point for issues about the legislation

We are here to administer the legislation and develop awareness of the CIC brand. We cannot change the law. If you have comments on the Act or Regulations as such these should be addressed to:

- Business Frameworks Directorate, Department for Business, Energy & Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

If you have comments on Government policy towards CICs, or social enterprises, more generally, you should address them:

- Office for Civil Society, Department for Culture, Media & Sport, 100 Parliament Street, London, SW1A 2BQ

In either case, we would be interested to receive copies of any such comments.

1.3. An overview of CICs

CICs are a new type of limited company for people wishing to establish businesses which trade with a social purpose (social enterprises), or to carry on other activities for the benefit of the community.

Many social enterprises and community organisations are already incorporated as companies (usually limited by guarantee), while others, such as co-operatives, take the form of registered societies. Many operate less formal legal structures, for example, with assets held on their behalf by trustees.

The CIC is a valuable addition to these forms and particularly suitable for those who wish to work within the relative freedom of the familiar limited company framework without either the private profit motive or charity status. They are more flexible than some other legal forms and there are a variety of capital structures available to meet the needs of members and the organisation.

The CIC has proven attractive to a wide range of individuals and organisations wishing to participate in social enterprises. CICs are a useful vehicle for enterprises of all sizes from a small community care project to a large organisation providing international fair-trade type distribution systems for the benefit of overseas producers.

CICs are a useful legal form for holding local assets such as community halls and facilities, as well as for trading in a conventional sense through the provision of goods and services, either directly to the public and organisations or through contracts with service providers.

Although the same body cannot be both a CIC and a charity, a CIC may well be a useful way of operating trading activity for a charity, such as, a charity shop. It could be established in such a way that it could pass some, or all, of its profits to the charity to finance its charitable activities (see below and Chapters 2).

Benefiting the community is what CICs are all about and providing that they can pass the community interest test (see below and Chapter 4) there are very few restrictions on the purposes for which a CIC can be used.

The concept of community is important to understand (see Chapter 2) as it can have a wide range of meanings from the population as a whole to a section of the community, such as the residents of a particular area or a group of people suffering from a particular disadvantage. A CIC cannot be used solely for the financial advantage of a group of people, for political purposes, or for the benefit of the employees, directors or members of a single organisation.

1.3.1. Basic legal structure and special features

The basic legal structure for CICs is the limited liability company. They can either be incorporated as a new company, or converted from an existing company. They can take one of three company forms (see Chapter 3):

- company limited by guarantee without a share capital,
- private company limited by shares, or
- public company limited by shares.

A CIC's name must end in either CIC or Community Interest Company and not limited or ltd (see Chapter 2).

As CICs are intended to use their assets, income and profits for the benefit of the community they are formed to serve, they must embrace some special additional features:

- They are subject to an 'asset lock' (see Chapter 6) which ensures that assets are retained within the company to support its activities or otherwise used to benefit the community. The main elements of the asset lock are as follows:
- CICs may not transfer assets at less than full market value unless the transfer falls within a narrow range of permitted transfers such as to another asset-locked body or for the benefit of the community.
- If its constitution allows a CIC to pay dividends (other than to another asset locked body – essentially another CIC or a charity) these will be subject to a cap that limits the amount of dividend payable. A similar cap applies to interest payments on loans where the rate of interest is linked to the CIC's performance (see Chapter 6).
- On dissolution of a CIC any surplus assets must be transferred to another asset locked body once all liabilities have been met.

1.3.2. Eligibility to register as a CIC

To register as a CIC a company must (see Chapters 2, 4 and 5 for further information):

- Adopt a suitable constitution in the form of Articles that comply with the CAICE Act and CIC Regulations 2005 (for existing companies this will involve making changes to their articles and a change of name).
- Make a community interest statement on a form CIC36 or CIC37 declaring that its activities will be carried on for the benefit of the community and how this will be achieved.
- Satisfy the Regulator that a reasonable person might consider that the CIC's activities are or will be carried on for the benefit of the community. This is known as the "community interest test". The CIC will have to continue to meet this test throughout its life. A company will not satisfy the test if it carries on certain political activities, or if a reasonable person might consider that its activities are carried on only for the benefit of the members of a particular body or the employees of a particular employer.
- Make a declaration that it will not be an excluded company (which briefly means that it must not be owned or controlled by a political party or a political campaigning organisation).

1.3.3. Other things to consider

- CICs are required to produce an annual CIC Report, which will be delivered with their accounts with a £15 fee to Companies House. This report will be placed on public record. The Report must record the CICs activities and how it involved its stakeholders during the year. This will ensure that the community served by the CIC will have easy access to key information on its activities. It must also contain additional financial information such as payments to directors and declaration of dividends (see Chapter 9).
- Applications for registration of a company as a CIC are made to the Registrar of Companies in the usual way, but before the company can be incorporated the application will be referred to the Regulator to consider whether the company is eligible for CIC status (see Chapter 4).
- The Regulator also considers other matters such as proposed changes in a CIC's objects (see Chapters 5 & 8), and the conduct of individual CICs.

- The Regulator has a range of investigation and enforcement powers to support her role and deal with CICs which are failing to comply with their CIC obligations. The Regulator is a light touch regulator and only uses these powers to the extent necessary to maintain confidence in CICs.
- A CIC operates in the same way as any other company. It has all the well understood characteristics of a limited company such as a separate legal identity; the ability to enter into contracts and own assets in its own name; and flexibility in borrowing and fund raising. The separate legal identity means that a CIC will continue to exist despite changes in ownership or management.
- The directors can be paid or unpaid and have the same rights and duties as any other directors.
- The members of a CIC have the same governance and decision-making role as in any other company, but they (and the directors) are under a stronger obligation to have regard to the wider community which the company serves and involve stakeholders in its activities than might otherwise be the case.
- People dealing with a CIC (such as banks and suppliers) are familiar with dealing with companies and therefore have confidence in a corporate body with limited liability.
- CICs produce accounts and annual returns just like any other company, which are available on the public record. Further transparency is achieved by the annual CIC Report.
- The asset lock and other features give confidence to those funding CICs (particularly those not looking for any financial return) that the assets will be used for the benefit of the community and not unduly benefit the CIC's members or employees.
- It is hoped that CICs will become established as a brand of company that the public recognises and trusts and whose social purpose they understand.

There may be some minor additional costs associated with the need to conform with the special requirements (including the small fees that will be charged by the Regulator) (see Chapter 4). However these should not be a deterrent in becoming a CIC.

In practice the special features should not prove onerous or cause any difficulties. Forming a CIC should be just as easy as forming an ordinary company. It will help if you spend a little time understanding the special features of a CIC. The Regulator's team are always happy to advise on general matters. However the Regulator's Office cannot act as

your professional adviser on specific matters relating to your own potential CIC. You should seek your own independent legal advice.



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