

Urban Community Energy Fund – Introduction to incorporation

Your community group will need to be incorporated to apply to UCEF. This helps to protect both your group as individuals and your group's project (and therefore UCEF's investment).

Incorporation is relatively simple, and can be quick and inexpensive. For example, registering as a company can be done within 24 hours for a £15 fee. More details on timescales and fees for the different options for incorporation are given below.

What is incorporation, and why does it matter?

An incorporated organisation has a legal status in its own right, separate from the people who run it. Incorporation provides protection for both the organisation and its members:

- Any debts or liabilities belonging to the organisation cannot be reclaimed from individuals (i.e. the organisation's members have 'limited liability'). This means you won't lose your savings, house or other belongings if your project or group falls into financial difficulty.
- Conversely, it also protects your organisation from being forced to pay out because of debts or liabilities owned by an individual. This means your project or group won't suffer if one of its members finds themselves in financial difficulty.

Incorporation does not protect individuals from criminal charges such as fraud.

It is important to many commonly accepted 'types' of organisation are not recognised as a legal form. Groups may tend to refer to themselves as, for example 'charity', 'co-operative', 'faith group', or 'housing association', but they will need to also have a legally defined incorporated form to apply to UCEF. Many organisations will already have an incorporated form; it's merely that they don't refer to in their public facing work. For example, the Centre for Sustainable Energy (administrator of UCEF) is charity, but we are also a Company Limited by Guarantee. This is our *incorporated form*.

What types of organisation are there, & how can my community group become incorporated?

You may want to take legal advice on which incorporation route you should choose. However, you may find that online guidance is sufficient to help you decide. We strongly recommend that you carefully consider the best model for your community in the long-term – which may not be cheapest or quickest registration option.

Registered companies – the most common types for non-profit or community groups are Community Interest Companies (CICs) or companies limited by guarantee or shares. These are registered with, and report to, Companies House.

- *Community Interest Company* – the core features of a CIC are: the assets owned by the company are held in an asset lock which secures those assets to applications for the good use of the community; and there are limitations applied to dividend and interest payments made to shareholders and financiers, which ensure a profit can be made but that the primary focus remains on achieving benefit for the community.
- *Company Limited by Guarantee or Shares* is a flexible business model with fewer restrictions on governance, activities, and profit and asset management than other models. This might suit some communities who want to undertake a wider range of activities beyond their low carbon energy project – which might be difficult or not possible under some of the other models. The drawback, however, is that, although you can incorporate social or ethical aims

into the articles that govern the company's actions, the company doesn't have to abide by them so your project can become more profit driven and less socially oriented if management changes hands in the future.

How do I register as a Registered Company? Registration is done through Companies House: <http://www.companieshouse.gov.uk/infoAndGuide/companyRegistration.shtml>. Registering as a company can take 24 hours online and cost £15. Postal applications take 8-10 days and cost £40.

Charitable Incorporated Organisations (CIOs) – this is a fairly new form of charity (introduced in 2012). These are registered with, and report to, the Charity Commission. There are two types of CIO: 'Foundation CIOs' (where the same people are both the trustees and members), and 'Association CIOs' (which may have a body of members which are quite distinct from the trustees). They are designed to be a more efficient way to run a charitable venture than standard charitable companies, with regulation that is less complicated and onerous.

Note that having charitable status, unless you are a CIO, does not automatically mean that an organisation is incorporated. This is why many charities registered before 2012 will also be registered as a company.

How do I register as a CIO? Here is a full list of questions and links for how to register as a CIO: https://apps.charitycommission.gov.uk/FAQS/Registering_a_charity/FAQs_about_CIOs/default.aspx. Registering with the Charity Commission takes around 30 days on average, with no fees.

If your group plans to register as a charity, we recommend using the Charity Commission's model constitutions as guidance for developing your governance documentation:

<https://www.gov.uk/government/publications/setting-up-a-charity-model-governing-documents>

For further information: <https://www.gov.uk/running-charity/setting-up>

Registered societies – this includes Co-operative societies and Community Benefit Societies, and includes all societies previously known as 'industrial and provident societies' (IPs) (this was updated in 2014). These are registered with the Financial Conduct Authority. Registered Societies must be either a bona fide co-operative society (i.e. based in principles of one person, one vote, and distribution of benefits to members linked to their participation in the business) or they must exist for the benefit of the community (i.e. run for the benefit of the wider community and unable to distribute assets or profits to its members). The other main difference to registered companies is that some financial matters (e.g. share and loan interest, and dividends) are treated differently..

How do I register as a Registered Society? Registration is done through the Financial Conduct Authority: <http://www.fca.org.uk/firms/firm-types/mutual-societies/industrial>. It takes around 15 working days to complete a registration, with fees ranging from £40 to £950 depending on whether (and how much) you want to deviate from the standard society rules.

Local councils – all parish and town councils and local authorities are incorporated bodies in their own right, as part of the provisions of the Local Government Act 1972. This does not include 'parish meetings', which are a less formal body.

Parish and Town Councils can apply to UCEF in their own right where they are located in an urban area (most parishes will be eligible for RCEF, rather than UCEF). Local Authorities are welcome to apply, but this must be done in partnership with the wider community. This can either be done by the Local Authority simply acting as a supporting partner for an application from an eligible organisation, or by the Local Authority establishing a Registered Society, CIO or Registered Company which has broad representation on its board from both the local authority and the wider

community. Such an organisation will need a clearly defined remit within their articles of association to deliver energy projects that reinvest their profits for the direct benefit of the local community.

Further guidance

Co-operatives UK have a free select-a-structure tool to narrow down your options:

<http://www.uk.coop/our-work/select-structure-tool>

This PlanLoCaL exercise helps you to identify the most suitable organisational legal structure. It is based on the Cooperative's 'Select-a-structure' tool: http://www.planlocal.org.uk/planlocal-community-renewables/download_file/23

This PlanLoCaL video provides an introduction to becoming a legally recognise entity:

<http://bit.ly/ZToZJY>

Co-operatives UK's 'Simply' series of publications cover the set-up and governance of co-operative and community enterprises: <http://www.uk.coop/simplystartup>

This PlanLoCaL video provides case studies of different groups, and the legal structures they have adopted. This highlights how different legal structures work for different groups:

<http://bit.ly/1vbGpOL>

NOTE THAT MANY OF THESE TOOLS REFER TO THE VERY RECENTLY REVOKED FORM CALLED 'INDUSTRIAL AND PROVIDENT SOCIETY'. WHERE THIS IS REFERRED TO, YOU SHOULD ASSUME THE GUIDANCE NOW REFERS TO THE NEW 'REGISTERED SOCIETY' INCORPORATED FORM INSTEAD.

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