



Argyll and Bute Third Sector Interface

Consider the risks

Before deciding on the right structure for your organisation you should think through the types of activity you will be involved in and the level of risk attached. This will help you decide on whether incorporation is right for you.

Typically, organisations will opt for incorporation when they are undertaking inherently risky activities such as buying premises, employing staff, raising large-scale finance, entering into large contracts, etc. So think ahead to how your organisation might develop.

Unincorporated – Incorporated: What’s the difference?

An unincorporated organisation is a collection of individuals with no separate legal identity. If it wants to own property etc., it must rely on individuals to do so on its behalf. This increases the risk of personal liability for those involved in running the organisation.

An incorporated organisation has a legal identity of its own. This means that it can own property, enter into contracts and employ people in its own name. Incorporation means the liability of the organisation to third parties is limited to the total amount of the members’ guarantees. This gives protection to those running the organisation and its members in most cases. However, it also means that committee members need to take their responsibilities very seriously as they are legally binding. There are also obligatory reporting duties, for example for companies to their official regulatory body – Companies House and for Scottish Charitable Incorporated Organisation – OSCR.

However, personal liability may still occur if trustees are:

- Reckless
- Negligent
- act illegally
- act out with their powers in the management and control of the organisation

It’s important to get your legal structure right both for now and the future, because the wrong structure can get in the way of doing your work effectively, and may increase the risk of personal liability.

As always, our team are on hand to offer support in addition to the self-Serve System.

Published on the Argyll and Bute Third Sector Interface Self-Serve system (www.argylltsi.org.uk)
(Adapted from SCVO)

Version: 1.0

Published: January 2019

Review date: January 2020

Argyll and Bute Third Sector Interface | 01369 700100 | support@argylltsi.org.uk

Argyll and Bute Third Sector Interface is a Company Limited by Guarantee in Scotland No. SC277345
Scottish Charity No. SC029947

Registered office: c/o Edward Street Community Centre, Edward Street, Dunoon PA23 7PJ