



New Organisational Pack

First Steps

Introduction

Voluntary Action Orkney supports the third sector (that is voluntary groups, charities, social enterprises and volunteers) in Orkney by providing advice, information and a wide range of practical services. We provide help at all stages of group development, whether it is starting up, planning or managing a project, finding funding, or employing people.

We have created this pack as a guide to starting a new organisation or formalising a group that you are involved with.

Please feel free to get in touch with our Development Workers if you would like to discuss any of the information in the pack or have a question about what to do next.

We hope you find this guide useful and would welcome any feedback you have about the information it contains.

1 Why form a New Organisation?

New community groups are started for many reasons: to bring people together over a shared interest like sport or crafts, to deliver an activity or service to benefit the community, or to address a need or support community development.

If you are considering starting a new organisation or formalising an existing group, then this pack is for you. The aim of this pack is to help you and others involved in your group to identify the organisations aims, select an appropriate legal structure and to help you understand the responsibilities associated with running such an organisation.

One of the greatest strengths of community organisations is that they have grown from the passion, vision and commitment of people to see a change happen. However setting up a new voluntary organisation, is a bit like setting up a business. There is some paperwork and competition for resources such as funding and volunteer help is strong. So a bit of careful research and planning is always needed.

2 How do you get started?

First and foremost - do not work in isolation. If you already have a group of interested people, form a 'steering group' to share the workload and keep things moving forward. Getting started should always include some kind of 'market research' – test the water, asking what people think, and finding out whether or not your idea is feasible, you might also find a group already exists that has similar goals. By answering some straightforward questions the steering group will be able to communicate to themselves and others why the organisation exists and how it will sustain itself going forward.

Before looking in more depth at the different options available, you should ask yourselves the following questions. Your answers to these will help guide you to choosing the most suitable structure for your group.

- What is your group set up to do?
- What are you aiming to achieve?
- Who can become a member?
- How do you intend to recruit members?

- Who will be responsible for managing and controlling the group? How will they be appointed? What will they be authorised to do?
- How will the group's members meet and make decisions?
- Does your group intend to borrow money and / or give grants or loans to others?
- Does your group own property or is it likely to own property in the future?
- Is it likely that your group will be handling large sums of money?
- Do you envisage the group employing paid staff?
- Is your group thinking about charitable status?

Once you have answered all or most of the above questions you will have an idea of the structure that you need to develop and the type of constitution that will suit the needs of the group. A constitution, sometimes called a founding document, contains the aims, objectives and rules that your group will use. It is a statement of what your group is going to do and how it is going to do it. You may find the enclosed document, '*setting up a new organisation – questions,*' useful at this stage.

Why have a written constitution?

- Without this written understanding, people can easily find themselves at cross purposes and the jobs won't get done
- It will serve as a reference and help to resolve problems in times of controversy
- Outsiders, especially potential funders, will want to see that your group is democratic and accountable. This involves having a clear procedure by which decisions are made

Charitable Status

If your organisation decides that becoming a charity is the correct choice, please see our '**Becoming a Charity**' resource, which you can access from www.vaorkney.org.uk or call or email to request a printed copy. The pack contains information on charitable objectives, the duties of charity trustees and how to apply to OSCR (Office of the Scottish Charity Regulator) to request charitable status.

There are different legal structures and various types of constitution to suit your group's needs.

A table of some common structures (please see **appendix 1**) for voluntary organisations along with the pros and cons for each can be found at the end of this section. Please have a look through it and if you have any questions or would like to discuss which option might be best for you, please get in touch with one of our Development Team.

3 Funding and Finance

It is very important to consider what money you will need and where your organisation will get money from. Not just to start out, but to keep running and to deliver services if that is what you plan to do. Before looking for potential sources of funding, the steering group should stop and consider the following points:

- What resources will the organisation need? Do you need facilities? How much will it cost to hire them, can you negotiate a discount for booking in advance? Do you need equipment, materials, postage or a dedicated email address?
- You will need to work out a budget for your organisation's activities, it could be a day-to-day budget or month-to-month depending on your activity levels. It is important to identify the running costs you will need to be sustainable.
- Will you seek donations from the public? If so, you will need to be clear about how that will be done and how cash donations should be handled and spent.

You will need a bank account in the organisation's name and your structure and activities will determine what type of account you need. It is important that your money is handled responsibly, so you will need to put in place policies and procedures to ensure that expenditure is approved by two unrelated signatories and money that is received as a donation or grant, is used only for the purpose it has been donated or awarded for.

- If you intend to apply for grants to deliver your services/activities you will be required to have an organisational bank account and an up to date constitution. Some funders will only fund registered charities, but there are many who will fund any group. For help to find funders or to develop an application please contact our Funding and Development Worker.
- There are specific rules for charities around fundraising, and this information is available in our 'Starting a Charity' pack, as well as on our website.

Getting your financial procedures in place at the earliest possible point ensures that once your group is set up and is running, money is handled responsibly and appropriately.

4 Promotion, Publicity and Communication

Once you have formed your group, it is important to decide how you will tell people about it. How will you encourage people to join, attend or volunteer? It will be important for the steering group to make decisions about creating a website or using social media; these can all increase awareness of your organisation but will need to be updated, monitored and in some cases moderated. It is worthwhile taking time to create a logo for use in any external communications with funders, members, and the public and will make letters and other publications instantly recognisable as being from the group. Other things to consider:

Will your organisation need a regular communication method like a newsletter?

- What method of communication would your members or beneficiaries prefer?
- Would it be, by post, email or another electronic method such as Facebook?
- What arrangements will you make for people who, for a variety of reasons, don't have access to a computer?

Whatever method you choose and it will usually be a combination of some or all of the above, you may wish to ensure that you have the skills you need within your group.

What to do next?

Once your steering group has worked through the information and the questions contained in this pack you will most likely have identified the legal structure you think is best suited to the organisation and the activities you intend to undertake. Do not worry if you are still unsure, the VAO Development Team can help if you have any queries, or would like to explore the options further.

Once you have decided, the next step will be to draft a governing document that is suited to your chosen structure. You can write the document yourselves, ask a solicitor to write one, or VAO can write it for you. VAO will charge for this service, however there is a reduced rate for members. **Appendix 3** sets out the benefits of becoming a VAO member.

There is a form at **appendix 4** which is also available from our website www.vaorkney.org.uk that will help you answer key questions for creating your governing document, no matter which structure you have chosen. It is worth taking the time to work through these questions as that will help to clarify the details.

A draft of your governing document will need to be approved by the steering group and then at a public meeting by members or potential members. The steering group may become the first committee members, or others recruited at this point. Once a draft accepted, then, as appropriate, application to either OSCR (to apply to register as a charity or as a SCIO) or Companies House (to register as a Company or a CIC) or the CIC Regulator (to register as a CIC) or FSA (to register as a Co-op or Community Benefit Society), can be made.

If accepted by the appropriate regulator, the draft can be formally accepted and signed by the committee. Then the fun can start!

For more information please contact VAO's Development Team who will be pleased to help you. If you prefer, you can access one of the websites listed in **appendix 2** and complete and submit the required documents directly.

Things to consider:

- Opening a bank account
- Managing finances
- Keeping accounts
- Submitting returns
- Governance
- Holding committee meetings
- Holding AGMs
- Being a charity trustee

VAO Development Team can provide more information on the above topics at your request and help you with any next steps you may have.

Appendix 1 – Potential Structures – Which Structure is best for you?

Legal Structure	Pros	Cons	Regulator
Unincorporated Association	<ul style="list-style-type: none"> • Flexible and quick to set up • Democratic with each member having a vote • Relatively simple to administer • Easy to wind up • Can have a bank account in the organisation's name 	<ul style="list-style-type: none"> • The group is not a legal identity • Property can't be held in the group's name • Individual members of the committee are jointly and individually liable for contracts • People are often unclear about the liabilities • There is no limit to the financial liability of individual members 	None, but your members should have ultimate say in how the organisation is run
<p>Your governing document will be called a 'Constitution' and does not need to meet any legislative requirements, but should clearly state what your group does, how any money is handled, and who can be a member.</p>			
<p>*You could be an unincorporated association and be a registered charity, in which case your governing document would need to meet the requirements set out in the law (Charities and Trustees Investment Act 2005, Scotland)</p>			
A Trust	<ul style="list-style-type: none"> • Can be registered as a charity • No AGM or membership to administer • One tier organisation with the trustees being in full control of the powers 	<ul style="list-style-type: none"> • There is no protection in the event of debt and trustees could be personally liable for any loss resulting from their actions. 	OSCR
<p>Your governing document will be called a 'Deed of Trust' and must meet basic legislative requirements</p>			

Community Interest Company (CIC)	<ul style="list-style-type: none"> • Designed especially for social enterprises that wish profits to be used for the 'public good'. • Retains benefit within the community • Clearly states that this is a business for the benefit of the community • Must comply with both company law and any relevant community interest company legislation 	<ul style="list-style-type: none"> • It cannot be a charity • If an existing charity converts to a CIC they would lose their charitable status. • Accounts will be presented in an accrued format and will be subject to the same scrutiny as a company limited by guarantee. • Must report on community benefit as well as financial information every year • You might be fined if you are late submitting your return. 	C.I.C. Regulator
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Your governing document will be Memorandum and Articles of Association and will need to meet the requirements in the Companies Act as in the case of other companies with charitable purposes, an objects clause should also be included in the articles of association. You will have the additional requirement of creating a Community Interest Statement, The Community Interest Statement should be drafted taking into consideration the purposes for which the company is set up, the range of activities which it will undertake in order to promote these purposes, and the sections of the community which the CIC is intended to benefit.

Company limited by Guarantee	<ul style="list-style-type: none"> • As a legal entity, a company limited by guarantee may enter into the same type of transaction as a natural person, such as entering into contracts, employing staff, incurring debts, owning property, suing and being sued; 	<ul style="list-style-type: none"> • It is slightly more cumbersome and expensive to set up and operate. • Your governing document is called a Memorandum and Articles of Association and must meet basic legislative requirements • The protection is not absolute; in some circumstances such as fraud or negligence, directors individuals 	Companies House
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| | <ul style="list-style-type: none"> • It is democratic with every member having a vote. • Members' liability is usually restricted to £1 and the members and directors are protected from personal liability in the event of debt. • As the transactions of the company are undertaken by it directly, its directors are generally protected from incurring personal liability. • -Even though it is slightly more costly to set up, it is recommended as suitable for an organisation which has significant financial commitments. | <p>may be held responsible for the actions of the company</p> <ul style="list-style-type: none"> • You might be fined if you are late submitting your returns. | |
|--|--|---|--|

Your governing document will be called the Articles of Association (previously the Memorandum and Articles). The Articles will set out the period of office that board members can serve before they need to stand down (or retire) from office, along with procedures for re-election and the election of new directors. The Articles will be formally adopted by the members at the first general meeting of the organisation. If you are also applying for charitable status a clause will be included stating your charitable objects.

<p>A Scottish Charitable Incorporated Organisation (SCIO)</p>	<ul style="list-style-type: none"> ○ As a legal entity, the SCIO may enter into the same type of transactions as a natural person, such as entering into contracts, employing staff, incurring debts, owning property, suing and being sued. ○ As the transactions of the SCIO are undertaken by it directly, rather than by its <i>charity trustees</i> on its behalf, the charity trustees are in general protected from incurring personal liability. ● Only one regulator to report to i.e. OSCR. 	<ul style="list-style-type: none"> ● You may only undertake activities that further your charitable objects. ● You will be required to submit an annual return to OSCR every year detailing your activities ● Your accounts will need to be prepared in a receipts and payments format, and be <i>independently audited or examined</i> by someone outside your organisation. ● If you cease to be a charity, your organisation will cease to exist. ● This protection is not absolute; in some circumstances such as fraud or neglect, charity trustees individually may be held responsible for the actions of the SCIO 	<p>OSCR</p>
<p>Your governing document will be called a constitution and will need to meet the requirements set out in the Charities and Trustees Investment Act. It will need to contain your charitable objects, how your Board is appointed, and who can be a member. It will also contain information about what would happen to the charity's assets in the event of dissolution.</p>			
<p>Mutual Societies which could be:</p> <p>Community Co-Operative or a Community Benefit Society</p>	<ul style="list-style-type: none"> ● A mutual society has a legal identity in its own right which offers the protection of limited liability to its members. 	<ul style="list-style-type: none"> ● Mutual Societies aren't familiar structures to many funders ● Must have three members 	<p>Financial Conduct Authority</p>

<p>(Formerly known as Industrial and Provident Societies)</p>	<ul style="list-style-type: none"> • Mutual societies are owned and run by the members (at least 3 individual members), with individual shareholding capped at a certain level. • Management committee to oversee the running of the company • Profits are shared (usually distributed to members according to their contribution to the trading or business of the society or to the wider community the society was set up to benefit) • Each member has a vote in the control of the company. 	<ul style="list-style-type: none"> • Your accounts and returns need to be submitted and no reminders are sent • Conflict of interest between worker needs and those of the co-op • Co-ops have a variable history of success • Your annual reporting information will be submitted online • You may be fined for submitting late returns. 	
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Your governing document is called ‘Model Rules’ and will need to contain information about your structure, the process of joining the management committee. Your Rules will also detail profit sharing and share capital levels if relevant.

Appendix 2

Useful Contacts

For groups thinking a becoming a registered charity

www.oscr.org.uk

For groups thinking about becoming companies

<https://www.gov.uk/topic/company-registration-filing/starting-company>

Community Interest Companies

<https://www.gov.uk/set-up-a-social-enterprise>

For mutual societies

[Financial conduct authority](http://www.fca.gov.uk)

For more information see VAO's website: www.vaorkney.org.uk and visit the community toolkit.

Appendix 3

VAO Membership

If you would like to become a member of VAO, you will receive the following benefits:

- Priority access to up to date information, advice and support from our experienced staff
- Priority places on subsidised or free training courses
- A stronger, collective voice on issues that affect your organisation
- Monthly newsletters that provide advance information on topical issues as well as notification of training and funding events
- Regular briefing papers to keep you up to date with legislative and other changes that affect the third sector in Orkney
- Preferential rates on all office services, payroll and HR Service.
- Preferential rates on preparation of constitutions and/or memorandum and articles of association
- The opportunity to become a Director of Voluntary Action Orkney

Appendix 4

New Constitution Check List

Name of Organisation:

Address (including post code):

.....

Telephone Number: Email.....

Contact Name:

REQUIREMENT

A new governing document? (start at paragraph 7 below)

Changes to an existing governing document? (start at paragraph 1 below)

EXISTING ORGANISATION

1. What is the name of the existing organisation?

Does the organisation have a constitution? **YES/NO**

2. *If YES, is the copy available to see?* **YES/NO**

3. Is the existing organisation a registered charity? **YES/NO**

4. If yes, please give the Scottish charity number

5. Are the changes to your existing constitution required in order to become a registered charity? **YES/NO**

6. Some other reason (please state below)

NEW ORGANISATION

7. What is the name of the proposed organisation?

8. Does the organisation wish to register as a charity? (please circle the appropriate option)

- Now
- In the future
- Never
- Not sure what registering as a charity means?

9. What are the aims/objectives of the organisation?

MEMBERSHIP

If the organisation is to be a registered charity there are some provisions which must appear in its constitution. The most usual arrangement is for there to be a body of members who meet at general meetings and for them to elect a management committee to run the organisation on a day to day basis.

10. Do you want to be a 2 tier organisation? (A 2 tier organisation has members who annually elect a committee to run the organisation)

11. Who are the members to be? (i.e. who is membership open to?)

12. Is membership to be limited to individuals only? **YES/NO**

13. **Or** is it to include representatives from organisations, which support the objectives (member organisations)? **YES/NO**

14. Are there to be different classes/types of membership? (eg Junior, Honorary) **YES/NO**

15. If YES, what is required

16. Are members required to pay an annual subscription? **YES/NO**

MEETINGS

17. The standard arrangement is for an Annual General Meeting (AGM) to be held once a year and for other meetings to be called as and when needed.

Is this what you want to happen? **YES/NO**

If not please describe below:

18. A standard period of notice for meetings is 21 days.

Is this what you want to happen?

YES/NO

If not please state your preferred period of notice

.....

19. Who should be entitled to call general meetings? A standard arrangement is for the committee to call meetings as they think fit and in addition, for one tenth of the membership to be able to insist on a meeting being called.

Is this what you want to happen?

YES/NO

If not, please describe what you would like to happen below:

20. What would you like your quorate figure to be for general meetings?

A common arrangement is one tenth of the number of members

Is this what you want to happen?

YES/NO

21. It is usual for the chairperson of the meeting to have a casting vote in the event of a tied vote on resolutions.

Is this what you want to happen?

YES/NO

GENERAL MEETINGS (meeting of ALL members, not just the management group)

22. There must be an Annual General Meeting (AGM) each year. The AGM can deal with whatever business the constitution says it can deal with. The following business should be included:

The AGM must:

- Receive the report and accounts for the previous year

- Elect the committee for the following year
- Determine any other matter of which notice has been given

Any other items to be added:

COMMITTEE

There has to be a group responsible for running/managing the organisation; in a small organisation, all the members might be on the committee, at least initially.

23. What name do you want for the Management Committee? (Please specify)

Management Committee

Executive Committee/Group

Steering Committee/Group

Other term (please state)

24. Do you wish there to be a Chairperson, Secretary and Treasurer?

YES/NO

Any other office bearer you would like included?

.....

25. Are the officers to be elected at the AGM by the full membership?

YES/NO

OR

26. At the first meeting of the committee each year (by the committee themselves)

YES/NO

27. How many members is the committee to consist of: are a minimum of three and a maximum of nine ok?

YES/NO

28. If NO please state minimum number
and
maximum number

29. Are committee members: (please circle which of the arrangements below you want)

- All to retire annually
- One third to retire each year
- Able to be re-elected indefinitely

30. Should the committee have the power to co-opt additional members?

YES/NO

31. It is common for co-opted members to have full voting rights.

Is this what you want to happen?

YES/NO

32. What quorate figure would like for committee meetings?

(You would want to have enough people there to ensure any decision taken is fair but not so many that it makes it difficult to get enough folk together, generally the number is around 5)

33. It is common for the chairperson to have a casting vote at committee meetings.

Is this what you want to happen?

YES/NO

AMENDMENTS (CHANGES) TO CONSTITUTION

34. In the future you may wish to make changes to the constitution; we will insert the provision that any changes need approval from the full membership at a general meeting.

Is this what you want to happen?

YES/NO

DISSOLUTION

35. There needs to be a statement regarding who has responsibility for dealing with the work involved in the event that it becomes necessary to close the organisation. The standard arrangement is for the committee to be responsible.

Is this what you want to happen?

YES/NO

OFFICIAL USE					
Date		Initials		1 st draft constitution date	