

Comparison of Charity Structures for Childcare Providers

The table below compares the key points of the three main charity structures which are suitable for charitable childcare providers.

Charitable Incorporated Organisation (CIO)	Charitable Unincorporated Association	Charitable Company (Limited by Guarantee)
Governed by charity law and regulated by the Charity Commission.	Governed by charity law and regulated by the Charity Commission.	Governed by both charity law and company law. Regulated by the Charity Commission and Companies House.
Must register with the Charity Commission, regardless of level of income. No fee is charged by the Charity Commission for registration.	Must register with the Charity Commission if annual income exceeds £5,000. No fee is charged by the Charity Commission for registration.	Must register with the Charity Commission if annual income exceeds £5,000. No fee is charged by the Charity Commission for registration. Must register with Companies House regardless of income level. Companies House charge an administration fee for incorporation of a company.
Must have a Constitution outlining the rules for governance of the CIO.	Must have a Constitution outlining the rules for governance of the unincorporated association.	Must have Articles of Association outlining the rules for governance of the charitable company, and a Memorandum signed by the initial members to form the company.
Has a membership who form the CIO; and trustees who manage and administer its affairs.	Has a membership who form the charity; and trustees who manage and administer its affairs.	Has a membership who form the charitable company; and trustees who manage and administer its affairs. The trustees are also registered as the directors of the company with Companies House.
A corporate entity, with its own legal personality which is separate from its trustees and members - offering protection from personal liability for the members and trustees of the CIO.	An unincorporated entity which does not have its own legal identity. It exists as a collection of individuals - the members and trustees - meaning that there is no protection from personal liability for these individuals.	A corporate entity, with its own legal personality which is separate from its trustees and members - offering protection from personal liability for the members and trustees of the charitable company.
Members are not required to contribute any money towards the cost of winding up the CIO (unless the CIO constitution requires that they contribute a limited amount e.g. £1).	Trustees and members may potentially be required to personally contribute money towards the cost of winding up the charity where the charity does not have sufficient assets.	Members contribute a limited amount (usually £1) towards the cost of winding up the charitable company.

<p>Must complete an annual return for the Charity Commission within 10 months of the charity's financial year-end, regardless of its level of income. No fee is charged by the Charity Commission for filing of the annual return.</p>	<p>Must complete an annual return for the Charity Commission within 10 months of the charity's financial year-end if income exceeds £10,000. No fee is charged by the Charity Commission for filing of the annual return.</p>	<p>Must complete an annual return for the Charity Commission within 10 months of the charity's financial year-end if income exceeds £10,000. No fee is charged by the Charity Commission for filing of the annual return.</p> <p>Must also file an annual return with Companies House within 28 days of the company's made-up date, regardless of income level. Companies House charge a processing fee for filing the annual return.</p>
<p>If gross annual income is £250,000 or less, may prepare simple receipts and payments accounts. Must prepare accrual accounts if income exceeds £250,000.</p>	<p>If gross annual income is £250,000 or less, may prepare simple receipts and payments accounts. Must prepare accrual accounts if income exceeds £250,000.</p>	<p>Must prepare accrual accounts which comply with Companies Act requirements.</p>
<p>Required to file its annual report and accounts with the Charity Commission within 10 months of its financial year-end, regardless of level of income.</p>	<p>Required to file its annual report and accounts with the Charity Commission within 10 months of the financial year-end if income is above £25,000.</p>	<p>Required to file its annual report and accounts with the Charity Commission within 10 months of its financial year-end if income is above £25,000.</p> <p>Required to file annual report and accounts with Companies House within 9 months of the company's accounting reference date, regardless of income level. A penalty is payable to Companies House for late filing of accounts.</p>
<p>Must comply with charity requirement to have accounts independently examined if gross income exceeds £25,000. A full professional audit is required if income exceeds £500,000 (or if gross income is more than £250,000, and the overall assets exceed £3,260,000).</p>	<p>Must comply with charity requirement to have accounts independently examined if gross income exceeds £25,000. A full professional audit is required if income exceeds £500,000 (or if gross income is more than £250,000, and the overall assets exceed £3,260,000).</p>	<p>Must have accounts audited, unless qualifies for exemption as a small company. To qualify as a small company at least two of the following criteria must be met:</p> <ol style="list-style-type: none"> 1) The company's annual income is not more than £6.5m. 2) The company's gross assets are not more than £3.26m. 3) The average number of employees for the year is not more than 50. <p>If exempt as a small company from company auditing requirements, charity requirements apply.</p>

Required to keep an up to date register of members and register of trustees.	Not legally required to keep a formal register of members or a register of trustees; but it is advisable to do so as this information will be necessary to administer the charity.	Required to keep an up to date register of members and register of the trustees/directors.
Trustees' names are publicly available on the register of charities held by the Charity Commission; unless dispensation is obtained from the Charity Commission for trustees' details to be kept confidential.	Trustees' names are publicly available on the register of charities held by the Charity Commission; unless dispensation is obtained from the Charity Commission for trustees' details to be kept confidential.	Trustees' names are publicly available on the register of charities held by the Charity Commission; unless dispensation is obtained from the Charity Commission for trustees' details to be kept confidential. Directors' names are publically available on the register of companies with Companies House. Companies House may also provide directors' residential addresses to credit reference agencies and specified public authorities.
Charity Commission do not maintain a public register of charges (money borrowed or owed by charities).	Charity Commission do not maintain a public register of charges (money borrowed or owed by charities).	Companies House maintain an external register of charges (money borrowed or owed by the charitable company), which may make this structure preferable for many lenders.
Law relating to CIOs is new and as yet untested through the courts.	Law relating to unincorporated associations is well-tested through the courts and understood.	Law is well-tested through the courts and understood.
Insolvency law applies to CIOs.	Insolvency law does not apply to unincorporated organisations.	Insolvency law applies to charitable companies.

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