

Club Incorporation

For Members 24/11/2018

Background

1. In August of this year we put forward a draft set of papers as the basis for converting the club from an Un-incorporated association to a Company Limited by Guarantee.
2. Following consultation we have made some changes to improve these documents and are now making a formal proposal to the AGM requesting approval from existing members to make this change.

Progress

3. We have produced a very close to final set of draft Articles of Association and Byelaws Attached and now believe these are close enough for members to vote on the proposal.
4. Depending on any changes we may need to call a further meeting for approval just before the company is formed.

The Options Considered

5. There are a number of different legal entities that provide similar protection for members and the club and these are set later in this document with the pros and cons and the reason we are proposing a company Limited by guarantee.

The Proposal

6. The club becomes a Company Limited by guarantee to limit the liability of its members & officers in the event of a major uninsured loss of some sort.
7. In order to form the company the club needs "Articles of Association" which will partially replace the clubs constitution / rules. In addition we have proposed a set of Byelaws that are more operational and between the two documents set out how the club would be operated. A draft set are now available for review. The Club Rules would be replaced by these two documents.
8. The Limited Company needs a number of directors and needs to hold a small number of statutory meetings primarily the AGM. A company secretary or Director has to file some specific forms to notify when Directors change, to submit annual accounts, an annual return etc. There would no longer be Trustees.
9. The Directors of the club have to take on various specific responsibilities and can be prosecuted if they are negligent in fulfilling those roles. At a basic level mainly what they need to do is:
 - a. Ensure the Club remains solvent (does not run out of money).
 - b. Know that the club is running in a way that it will be able to continue to run in the long term.

- c. In order to fulfil the above be sure that the Club is properly insured.
- d. Be sure that the Club has processes and procedures in place to operate safely.

10. We are proposing that the club operates as follows::

- e. A committee as currently with some of the members nominated as Directors.
- f. A separate board of Directors including the Chairman and Treasurer plus two to four others (who may or may not be committee members) who meet four times a year to fulfil the roles set out in the Byelaws. The Directors are a bit like the Trustees but with much clearer roles and responsibilities. As a result of the specific and statutory responsibilities they need to have more powers and a closer awareness and involvement in the running of the club. Draft Byelaws are now available for review.
- g. General running of the club is delegated to an Executive Committee similar to what we have now.

Planned Work post the AGM

11. Once we have approval from members to go ahead with approved Articles of Association and Byelaws it will take a few months to put into practice:

- h. Final check and tweaks on review by a lawyer (anything significant to be notified to members)
- i. Set up company
- j. Appoint directors and co secretary
- k. Apply for company to be a CASC
- l. Set up bank accounts
- m. Inform Riversports so that they can act accordingly regarding the constitution
- n. Ensure Insurance is going to transfer across OK
- o. Inform local authority of change to bar license
- p. Inform HMRC what status of new company will be
- q. Inform suppliers of new position
- r. Once all ducks are in a row transfer assets and liabilities into new company
- s. Sort out final accounts for unincorporated association

The Options Considered:

Type or Organisation	Pros	Cons	Comments
1 Unincorporated Association	Simple to administer Can be a CASC	The club and all members are collectively liable for all of the clubs debts and any legal action against the club is actually against the members	What we are currently
2 Company Limited by Guarantee	Liability of Members limited to whatever set out in the articles of association – typically £10 Can be a CASC Can enter contracts in its own name – no need for trustees to hold assets	Various Statutory requirements to submit returns and accounts There are fines for missing deadlines	This is what we are Proposing Typical structure for non profit making organisations that are charities
3 Company Limited by shares	Liability of Members limited to whatever set out in the articles of association – typically £10 Can distribute its profits to shareholders	Cannot be a CASC There are fines for missing deadlines	Typical structure for a company that runs a profit making business. Community sports clubs typically do not use a company limited by shares although this structure may be used where an investor into a club wants to retain ownership (e.g. some football clubs)
4 Community Interest Company	An advantage of a CIC include is that it provides a clear, limited company structure, for clubs wanting to be seen as social enterprises rather than a charity. The rules, including an assets lock and community benefit test, provide clarity and focus on what it means to be of benefit to the community.	CICs offer no tax reliefs but have additional administration requirements	We do not feel that there are any benefits to this structure that are not available as a CASC and ACSC benefits are not available.

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Type or Organisation	Pros	Cons	Comments
5 Registered Charity	Various Tax advantages and access to some grants / fundraising is limited to charities	More bureaucracy than for Limited companies	
6 Company Limited by guarantee that is a registered charity	Benefits as in 2 and 5 above	Bureaucracy of both a limited company and the charities commission	
7 CASC – Community Amateur Sports Club	Entitled to 80% rate relief and potentially a further 20% relief at the discretion of the council Other Tax incentives eg gift aid and exemptions from corporation tax	Some prescribed rules that have to be taken into account in the constitution etc. eg Open to whole community Limits of costs to members Organised on amateur basis Requirements on participation and income generation	We are already a CASC and meet the criteria so no change anticipated
8. Cooperative and Community Benefit Societies	Cooperative and Community Benefit Societies are types of structure that were previously known as Industrial and Provident Societies. They are reasonably straight forward to set up and provide a separate legal identity for the club and offer protection to members.	For many clubs, a company limited by guarantee is more straightforward to set up and administer. Companies are also more likely to be recognised and understood by external parties (e.g. banks, local authorities).	
9. Charitable Incorporated Organisations	The main advantages of a CIO are: They provide a separate legal entity for the club and offer members limited liability It may reduce administration in comparison to a charitable company.	The main disadvantages of a CIO include: The reduction in administration over a charitable company may not be significant As a relatively new structure it is less well known and understood by third parties including banks and local authorities,	Charitable Incorporated Organisations are, as the name suggests, organisations that offer the benefits of being incorporated and charitable status in one body. A CIO is a simple mechanism for a charity to trade although trading for a profit would still require a trading arm

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Type or Organisation	Pros	Cons	Comments
		but this is gradually changing.	