DS59

British Riding Clubs • Data Sheets

DS59 – Club Structures

March 2022 –Version 3

It is important that your Riding Club is structured, from a legal perspective, in a way that best suits your needs now and in the future.

There are a number of key reasons to get your club structure correct including:

- It determines whether your club is a separate legal entity or not
- It has an impact on members' liability
- There are different rules and legal requirements depending on how your club is structured
- It can have financial implications
- It can influence how your club is viewed by others (e.g., banks, funding providers, the public)

Clubs can either be structured as **Unincorporated** or **Incorporated** organisations. Many sports clubs set up and continue to run as an unincorporated association, bound together by common rules. Becoming incorporated makes the club a separate legal entity which means club members are not personally responsible for its debts. There are several different incorporation structures to consider.

Clubs may also be eligible to adopt **Charitable Status** or **Community Amateur Sports Club (CASC)** status, regardless of their legal structure. These offer benefits to clubs but also require meeting certain rules and obligations.

Whatever structure or status you choose, make sure you understand what the implications are, and you may want to consider updating your Constitution to reflect your new structure.

The information below will take you through the different structures in more detail, investigating the pros and cons of each legal structure. As this can be a complex area, you may need to seek professional advice.

Unincorporated Organisations
Many sports clubs are formed, and continue to run, as a group of individuals bound together by common rules (or club constitution). These clubs are known as **unincorporated associations**.

An unincorporated association is particularly well suited to smaller, simpler clubs. This is the most common type of structure for an amateur club, largely because it is the easiest, cheapest, and most informal way of forming a club. Typically, these clubs would not employ staff, own significant assets (e.g., land, investments, or facilities) or enter into significant contracts.

Below are some of the advantages and disadvantages of running a sports club as an unincorporated association:

Advantages include:

- **Simple Administration –** Unincorporated associations (unless also a charity) do not have the same legal and administrative requirements that companies have (e.g., the requirement to file accounts or an annual return.
- **Flexible –** The rules of an unincorporated association can be whatever they choose, provided they are lawful, and can be easily updated. Remember the rules of your governing body, or the requirements for grant funding, may need your Constitution to contain certain clauses.

Disadvantages include:

- **No separate legal identity –** An unincorporated association is not separated from its members in the eyes of the law. This means committee members will have to enter into contracts, or hold assets, on behalf of the club, rather than the club itself. In the event of a claim against the club or breach of contract members of the committee, or wider club could be personally liable. If you want to enter into contracts, then you need to consider becoming Incorporated. Committee members may also be exempt from being able to claim on the Club liability policy as they are deemed to be 'The Club' and you cannot make an insurance claim against yourself. In this instance, the Committee may wish to consider investigating additional insurance cover options, such as Director's and Officer's Cover.
- **Transfer of assets –** As assets are held by individuals on behalf of the club, rather than the club itself, they must be transferred if that person leaves the club.

Fictional Case Study

Sarah, Linda and Freya ("S, L and F") all friends decide to set up the Castlegate Horse Riding Club ("the Club"), the setup is fairly informal and it's an unincorporated association, S, L and F all have various contacts/friends who would like to join the club. S, L and F form the Management Committee and have orally agreed on how the club should be managed and governed, this includes the rules and the rights of members who join. Subscription is not necessarily required to join the club, but in this case, this would be a reasonable source of funding so S, L and F agree to this. A short while after starting the club an extra ten members join.

Possible Issues:

- The unincorporated association is not a separate legal personality as members would have to take out any contracts on the Clubs behalf.
- The Club could not hold property or employ staff or enter into contracts in its own name.
- The Management Committee enter into a new contract so the contract would be taken out under the individual names, so any one or more of the Management Committee as an agent for the Club can take out the contract. This would mean that the members if the Management Committee would be liable for any breaches of the contract (but not the other members).
- If it appears that a contract has been signed by a member, but it was deemed to be taken out on the authority of the other members, then all members could be liable for a breach, not just the person who signed the contract.
- If a member signs a contract on behalf of the Club where they have not been authorised, then normally only that member will be personally liable for the breach of the contract.
- L's car gets damaged at a Club activity. As L is a committee member and therefore considered to be 'The Club', she is unable to claim on the Clubs insurance policy as she cannot claim against 'herself'.

British Riding Clubs • Data Sheets

Incorporated Organisations
To protect their committee and members, more and more clubs are choosing to separate the legal identity of their club by becoming incorporated.

Being incorporated allows the club to enter into contracts in its own right and offers protection for club members. Below are the different types of incorporation your club could adopt:

Company Limited by Guarantee
Like an unincorporated association, a club set-up as a Company Limited by Guarantee will be owned by its members. The main difference is that the club will have a separate legal identity allowing it to enter into contracts in its own right. This structure is well suited to clubs operating on a non-profit making basis where membership changes regularly. Members agree to pay a minimal amount if the club becomes insolvent, limiting their liability. Members are entitled to attend members meetings and vote which includes appointing and removing directors.

A club set-up as a Company Limited by Guarantee will be governed by its Articles of Association and depending on how the articles are written, may qualify for grant funding.

Advantages of a Company Limited by Guarantee include:

- **Separate Legal Entity –** This allows the club to enter into contracts and hold assets or investments in its own name.
- **Limited Liability –** Members are protected and are only required to pay an agreed sum (typically £1) if the company becomes insolvent. Having limited liability will protect the directors (of the company) and members against a claim, provided that the directors have been compliant with company law requirements.
- **Quick Incorporation –** it typically only takes a few days to register with Companies House.

The main disadvantage of a Company Limited by Guarantee is the additional administrative work needed to comply with legal requirements. These include filing annual returns and providing directors' information to Companies House. There are fines for missing deadlines. The articles will need careful drafting to protect the club and its assets.

The Starting Company section on GOV UK has more information on starting a company and the on-going requirements - https://www.gov.uk/set-up-business

Fictional case study

Sterling, Cyril and Raymond ("S, C and R") have been operating an unincorporated association which is known as the Nightingale Horse Riding Club ("the Club") for a few years. They also form the Management Committee, because of a dispute in respect of an unpaid debt and S having now left the Club, L and F decide to change the structure of the Club to a company limited by guarantee. This is to prevent future personal liability for breaches of contracts and also allow the company to hold property under its own name – so property is no longer under a member's name. The Club would now be a separate legal personality. There are no shareholders under this company structure, but the members would subscribe on joining and control it. The directors of the company would be recorded as such at Companies house and be responsible for day-to-day management.

Possible Issues:

- The Club may not receive as much funding as a CIC or incorporated charity because it's an ordinary company structure. Also, in terms of investment it would be easier if it were a company limited by shares (see below).

- L's car gets damaged at a Club activity. She can claim against the Company as it has separate legal personality.

Company Limited by Shares

A Company Limited by Shares is similar to a Company Limited by Guarantee. The main difference is that it is owned by its shareholders and the percentage of ownership is dependent on the number of shares purchased. 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).

Fictional case study

Norris, Tyrone and Leanne ("N, T and L") set up the Corinthian Horse Riding Club Ltd ("the Club") as a company limited by shares, they are the first shareholders of the Club and it means that the Club is incorporated. To become a member then a person would either need to subscribe to purchase shares or buy shares from another shareholder. N, T and L have used this structure because they want to obtain profits and investors. Norris owns a small paddock and sells this to the club for £1. This means that the Club can obtain contracts under its own name and limit the liability of the members of the Club.

Possible Issues:

- Every time a member leaves the Club their share either has to be transferred to somebody else or redeemed and every time a new member joins new shares would need to be issued.
- A developer/ investor whose daughter rides is buying up shares and appears to want to take the club over-to build houses on the paddock?
- L's car gets damaged at a Club activity. She can claim against the Company as it has separate personality.

There is a requirement to file an annual "Confirmation Statement" at Companies house and to file accounts/tax returns.

Advantages:

- **Separate Legal Entity –** This allows the Club to enter into contracts and hold assets or investments in its own name.

- **Limited Liability –** Members are protected and are only liable up to the value of their shares if the company becomes insolvent. Having limited liability will protect the directors (or the company) and members against a claim, provided that the directors have been compliant with company law requirements.

- **Quick Incorporation –** It typically only takes a few days to register with Companies House.

Disadvantages:

- Less attractive to external grant-making bodies as this is a commercial structure.
- Individuals can build-up shareholdings to increase their influence.

Community Interest Company (CIC)

A Community Interest Company is a company that operates for the benefit of the community. To become a CIC the company (Limited by Guarantee or Shares) must apply to the regulator and demonstrate their community benefit. As a company members enjoy limited liability. CICs must meet certain requirements, which set out how assets can be used (e.g., asset lock).

An advantage of a CIC 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 the assets lock and community benefit test, provide clarity and focus on what it means to be of benefit to the community and this can be helpful when seeking grant support, for example from Public/charitable bodies.

CICs offer no tax relief but are popular in the community sector. They have certain additional administration requirements.

Fictional case study

The Clarence Horse Riding Club ("the Club") Ltd is a company limited by shares, and because the Club is operating really for the benefit for the community and not for any personal advantage the Club seeks to change its structure to a CIC. To prove that it is a CIC, the Club must submit a community interest statement and the Club's articles of association to Companies House.

Once this approved it will then change name its name to Castlegate Horse Riding Club CIC.

Similar to other companies, the members of CIC's have limited liability because the Club was already limited by shares. But upon conversion to a CIC there would be a dividend cap of 35% of the CIC's profits that are available for distribution. There is also more appeal to funding bodies because of the community interest test that is required to obtain CIC status.

Possible Issues:

- The Club will have to file an annual community interest report with the CIC regulator.
- As well as abiding by Companies House regulations the Club will be subject to CIC Regulations, there is overall increased administration.
- Any assets held by the Club will be deemed to be for the benefit for the community, so effectively be 'asset locked'.
- L's car gets damaged at a Club activity. She can claim against the Company as it has separate legal personality.

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 straightforward 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).

Cooperative and Community Benefit Societies are regulated by the Financial Conduct Authority (FCA). Refer to the FCA website for more information - www.fca.org.uk.

Disadvantages

- The FCA can be slow and difficult to deal with if advice is required.
- The FCA will require some confirmation as to the Community Benefits provided.

Charitable Incorporated Organisation (CIO)

Charitable Incorporated Organisations are 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.

British Riding Clubs • Data Sheets

CIOs are regulated by one body – the Charities Commission – and therefore can be simpler to administer than clubs set up as a company with charitable status. The latter would have obligations to both Companies House and the Charities Commission.

In order to register as a CIO, the objects must be exclusively charitable and meet the “public benefit” test
If all of the club’s income is to come from gifts and grants, then a CIO model may be appropriate. But it restricts fundraising if the club wanted to develop property or land that could be borrowed against.

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.
- Standard forms of CIO Constitution are available.

The main disadvantages of a CIO are:

- 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, but this is gradually changing
- Because it needs to be registered with the Charity Commission it may take some months and the Commission will scrutinise your Constitution and whether you have a proper Charitable Purpose.

For further information please visit the Charities Commission website:
https://www.gov.uk/guidance/charity-types-how-to-choose-a-structure

Fictional case study

The Highgrove Horse Riding Club (“the Club”) is a community interest company and would like to set up a CIO, as the process is relatively cheap. The Charity Commission has templates of model constitutions, and this would need to be signed-off by members and registration as a CIO with Charity Commission can proceed.

There is no fee to register for filing information and since the Club is now incorporated any contracts and property can be done under the Club’s own name. The benefit is that it will be separate legal personality and liability will also be limited. The Club will also have tax benefits of a charitable company and does not have to show, before becoming a CIO that it meets the minimum income threshold of £5,000 to register for charitable status.

Possible issues:

- After a few months the Club wish to obtain funding for new stables because this is a fairly new corporate structure the bank is struggling to understand the structure, which is making the process of obtaining funding more time consuming.
- L’s car gets damaged at a Club activity. She can claim against the Company as it has separate legal personality.

Charitable Status

Adopting charitable status may benefit your Club, but it also brings with it additional requirements.

You will need to meet certain rules to be eligible to become a charity and meet ongoing annual reporting requirements.

Most clubs including those set up as Unincorporated Associations, Companies Limited by Guarantee and Community Benefit Societies can be charities. A CIC and non-charitable community benefit societies cannot be a charity but exist to benefit the wider community by trading to make a profit. As the name suggests, a Charitable Incorporated Organisation must be a charity.

Setting up as a Charity

In order to become a charity, a club must be able to demonstrate it is set up with aims that are charitable, and that these aims are carried out for the benefit of the public. This may mean the club has to update its Constitution to include the charitable and public benefit purpose. If you set up your club as a charity and have income of more than £5,000 per year you must register with the Charity Commission. This does not apply to a Charitable Community Benefit Society, which is registered by the FCA, with HMRC granting tax exemption. If the club has charitable purposes but intends to trade, for instance to sell tickets, merchandise or sell food and drink for a profit, it may have to consider a trading subsidiary. The Charities Commission has guidance to help clubs understand their obligations as a charity and what to do to meet these.

Advantages of charitable status include:

- **Tax Reliefs –** Charities attract considerable tax advantages on charitable expenditure including trading profits, rental income, on profits if you sell an asset and when you buy property. A club will also benefit from 80% relief from Business Rates.
- **Fundraising –** People may view you differently as a charity. Charities often enjoy considerable support from funders and other potential supporters and can claim Gift Aid on donations. In addition, charities can run certain fundraising activities that may be banned or require a license for non-charities.

Disadvantages of charitable status:

- **Status –** Once registered as a charity a club cannot stop being a charity.
- **Administration –** Regulation by the Charity Commission can involve an additional administrative burden.
- **Registration –** can be slow and the Charity Commission may query your application (as with CIO above).

Fictional case study

The Hogans Riding Club ("the Club") which has operated for over 3 years and is an unincorporated association. This means that the Club is currently not a separate legal personality so it cannot employee staff, enter into contracts or own property under the Club's own name. All of those important parts of running the Club is done by the Management Committee acting on behalf of the Club. This also means because of the Club's unincorporated status that the Management Committee would be liable personally for any liabilities caused by the Club. The Club has received fundraising and finance from other benefactors, but because it's not a registered charity it will not receive any taxable benefits.

To rectify this, the Club would like to change its status to a charitable company limited by guarantee. This means the Club will operate in its own name as a separate legal entity, distinct from the Management Committee members and limit the liability of the Club's members. The Club will also be able to obtain Gift Aid and tax relief.

British Riding Clubs • Data Sheets

Community Amateur Sports Club (CASC)
The Community Amateur Sports Club (CASC) scheme provides a number of charity type tax reliefs to support local sports clubs. It is basically a taxation status and does not require a particular legal form.

The CASC scheme can offer important financial benefits to clubs including significantly reducing business rates charges and allowing clubs to generate additional income through Gift Aid.

On 1 April 2015, significant changes were introduced to the CASC scheme. The Government introduced the new rules to encourage more clubs to sign up to the CASC scheme enabling them to generate more tax-free income and to make the rules easier to understand for existing CASCs.

For further information on CASC please visit the CASC website: http://www.cascinfo.co.uk/

Benefits

The key benefits of being a CASC include:

- Mandatory 80% relief from business rates
- The ability to generate income through the gift aid scheme
- Exemptions from corporation tax

Qualifying Conditions

CASC clubs need to meet certain conditions including:
- Being open to the whole community
- Setting limits on the costs for members
- Being organised on an amateur basis
- Requirements on participation and income generation

Considering applying for CASC status?
If your club already has CASC status, or you are interested in becoming a Community Amateur Sports Club, you'll need to make sure your club fits the requirements outlined by HMRC. The Club Matters website provide a CASC Guidance section on their website, but you will need to register to view this.

Please visit: https://www.sportenglandclubmatters.com/club-planning/club-structure/casc/

Considering CASC

If you are considering joining the CASC scheme it is recommended that you:

- Review the detailed guidance on the Club Matters website.
- Discuss this within your club and get agreement to move forward.
- Ensure your club is structured appropriately and has the appropriate governance arrangements. Seek professional advice and support from your governing body where appropriate.

If your club then wishes to proceed, it is really a measure of filling in a form and sending to HMRC- to register your club as a CASC visit:
https://www.gov.uk/register-a-community-amateur-sports-club/register

British Riding Clubs • Data Sheets

Fictional case study

The Greenfield Horse Riding Club ("the Club") is an unincorporated association. The current Management Committee as well as other members would like to focus the Club's activities on more equestrian sports and to train equestrians on an amateur basis. For now, the Club does not receive the tax benefits or exemptions that it could do if were CASC, especially in light of the donations and fundraising it has received in the past. So it would like to become a CASC.

Possible issues:

- A CASC must allow anybody to become a member unless it physically cannot allow anymore members into the Club.
- There will be no VAT benefits on purchases unlike a charity.
- There is an income limit condition of £100,000 from income they generate from non-members.
- L's car gets damaged at a Club activity. As L is a committee member and therefore considered to be 'The Club', she is unable to claim on the Club's insurance policy as she cannot claim against 'herself'.

Further Resources

This Data Sheet has been compiled using information from the Sport England Club Matters website. We think that this is an extremely valuable free resource provided by Sport England and well worth registering. Once registered you will be able to view all the information provided, covering many aspects of running a club.

Club Matters also host many free workshops across the country, covering different aspects of running a club from Club Structures and Finances to Marketing Strategy and Tax Requirements. Visit: www.sportenglandclubmatters.com