

APPLYING TO COMPANIES HOUSE

With over 3.5 million limited companies (Public, Private and Third Sector) registered in the UK, it is popular choice for incorporation. Many third sector organisations have traditionally set up as Companies Limited by Guarantee with Charitable Status and is widely acknowledged by funders, banks etc. as being a legitimate approach to setting up a charity. As mentioned in **1.5 Limited Companies** while a Company Limited by Guarantee can be registered with OSCR a Company Limited by Shares cannot due to the private gain that can be made by shareholders.

There are two main requirements when incorporating a limited company:

- **The INO1 ‘Application to form a company’** is the key form that all limited companies must complete. This form is universal and used for both companies limited by Guarantee and by Shares. The form gives step by step guidance with sections on the name of the organisation, company type, business address, who the Directors will be, any share capital and names of shareholders (if relevant) or statement of guarantee. This form also asks for the details of any person(s) who will have significant control over the organisation.
- Memorandum and Articles of Association. The **memorandum** is signed by all of the Directors (known as subscribers wish to form a company and agree to be members of it. The **Articles of Association** are the set of rules that govern the company. There are model articles of association available on the company’s house website that can be adopted by the organisation for incorporation. The proposed company must ensure that these articles fit the needs of the company and that all relevant sections are completed.

Check list for Incorporation:

1. A fully completed INO1 “Application to Form a Company” Form (**for a Ltd by Shares Company you must also complete Part 3 Statement of Capital**)
2. Memorandum and Articles of Association (model articles available for adoption)
3. Payment of £12 online of £40 by post

The Companies House website www.gov.uk/government/organisations/companies-house provides detailed guidance on the process of applying to incorporate a Limited Company as well as the online portal for registrations. The table below highlights key considerations when looking into the incorporation of a limited company.

Applying to Companies House	
<i>Is there a registration fee?</i>	Yes. There is a fee of £12 online and £40 by post.
<i>How long does the application process take?</i>	Companies House aim to complete the process in 24 hours online and 8-10 days by post.
<i>Are there any restrictions when naming my charity?</i>	Yes. A charity’s name cannot be offensive, the same as/too similar to an existing organisation, be misleading or suggest a connection to another organisation if this is not the case.
<i>Who is eligible to be a charity trustee?</i>	No minimum age is stated in the 2005 Act but OSCR would expect trustees to be over the age of 16. Undischarged bankrupts, those with an unspent conviction for dishonesty and those disqualified from being a company director cannot be a charity trustee.
<i>What are the annual reporting requirements to OSCR?</i>	Within 9 months of its year end date, a charity must submit to OSCR a Trustees’ Annual Report, annual accounts and Annual Return form.
<i>Can a charity employ a trustee?</i>	Theoretically yes providing certain conditions are met (<i>please see section 2.1</i>) but the private benefit to the trustee must be incidental and not a significant reason for establishing the charity. OSCR are particularly concerned with applications from organisations where a proposed trustee has already been appointed to a paid position (CEO or Project Manager etc.).