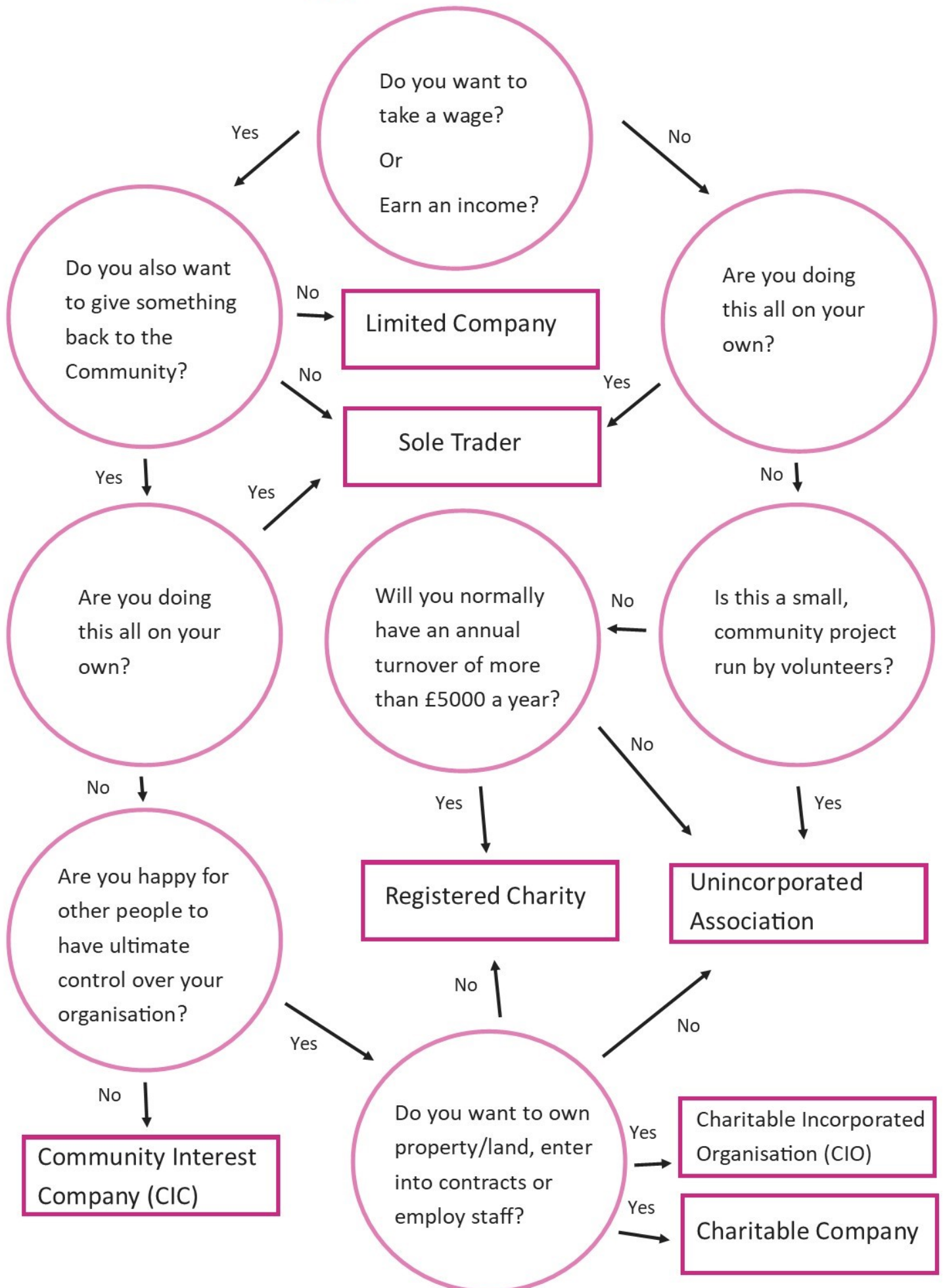


Choosing your legal structure...



A Quick Overview of the different structures

Sole Trader - Just you, on your own being self employed to run your business. This can be profit making or not for profit depending on what you choose, there is no organisation or authority to be held accountable to. You will need a bank account (your own or a separate account) to keep basic records and accounts and complete a self assessment tax return annually.

Limited Company - A small group of people who come together to form a company, this is a business structure so if you choose this you would be looking to make a profit. You have to register with Companies House and appoint directors to run the company and have a separate business bank account. You will need to provide an annual report and audited accounts to companies house annually.

Unincorporated Association - Also known as a Constituted Voluntary Group, this is essentially a small, unregistered charity. You will need at least 3 people (Chair, Secretary and Treasurer) to form your committee and a bank account in the name of the organisation. This is a not for profit structure for small organisations with an annual turnover of under £5,000 a year. There is no organisation or authority to be accountable to but you will need to keep basic records and accounts.

Registered Charity - A step up from an Unincorporated Association, this is a strictly not for profit structure that is suitable for slightly bigger organisations with an annual turnover of more than £5,000. You will need to register with the Charities Commission, appoint trustees (at least Chair, Secretary and Treasurer) to run the charity and have a separate bank account. You will need to provide an annual report and audited accounts to the Charities Commission each year.

Charitable Incorporated Organisation - An incorporated structure for charities, this is suitable for large charities that have an annual turnover of £5,000 or more and want to employ staff, enter into contracts or own property or land. You will need to register with the Charities Commission, appoint trustees (at least Chair, Secretary and Treasurer) to run the charity and have a separate bank account. You will need to provide an annual report and audited accounts to the Charities Commission each year (these will be shared with Companies house without you needing to do this separately)

Charitable Company - Generally a historic structure that has been superseded by the Charitable Incorporated Organisation structure. It works in the same way by you will need to register with both the Charities Commission and Companies House and submit annual reports and audited accounts to both each year.

Community Interest Company - A unique Structure for Charitable Companies that allows its directors to take a wage. It can employ staff, enter into contracts and own property or land in much the same way as the others, but its assets are locked making them the property of the CIC even if the company is dissolved. You will need to register with the CIC regulator, appoint directors and have a separate bank account, plus you will need to provide a community interest statement. You will need to provide an annual report, audited accounts to the CIC regulator.

Social Enterprise - This is not a structure, but any of the above can be classed as a Social Enterprise which basically means that its an organisation that has a business structure or operates in a business like way but does good in the community too. It's not a protected term and you don't need to register with anyone to use this title, it's simply a way to describe your organisation as being, at least partly altruistic.

Incorporated vs Unincorporated Structures

When thinking about what type of structure to choose for your Sling Library its important to consider whether an incorporated or unincorporated structure is right for you. If you've already gone through the flow chart and looked at the 'quick overview' it's likely that you'll have an idea of what options might work for you. It's normally a bit of a trade off between speed of set up and ease of running vs liability and security for those running the organisation.

Incorporated Structures -	Unincorporated Structures -
Limited Company	Sole Trader
Community Interest Company	Unincorporated Association
Charitable Incorporated Organisation	Registered Charity
Charitable Company	

When choosing one over the other it can be difficult to decide what's best as they don't all behave in the same way. In general Think of incorporated structures as people. The company becomes the organisations legal identity so it can own things like property or land, employ staff, enter into contracts and perhaps most importantly takes on the liability which limits the risk to the individuals who are running it. The downsides though is that there is a lot of paperwork, it takes time to register, your governing document is likely to need legal input which can be costly and you will need to keep detailed records, submit annual reports and audited accounts to companies house. Additionally if you are a Charitable company you will need to do the same for the Charities Commission and in the case of Community Interest Companies there is an annual Report and accounts to submit to the CIC Regulator.

For the unincorporated structures they all behave a little differently, Sole Traders can enter into contracts, own land and properly but the liability remains with the individual as their business is not separate to themselves. They will need to keep basic accounts but these don't need to be audited and monitoring is via a Self Assessment Tax return

Registered Charities have the worst of both worlds in some ways as they don't have a separate legal identity so can't enter into contracts, employ staff or own land or property and the liability rests with the Trustees as individuals (It is possible to take out Trustees Indemnity Insurance but its often ineffective in the case of claims) They may not need legal input for their governing document unless they choose to have it, but they do have to submit annual reports and audited accounts to the Charities Commission. That said it is the structure that has the most options available to it in terms of funding so there are some perks and this structure can work really well in some cases.

Unincorporated Associations are the most light touch of all the structures. They can't enter into contracts, own land or property , employ staff or take on contracts and the liability does remain with the committee as there is no separate legal identity, but the amounts of money are likely to be relatively low so there the risk is also low. They will need a governing document, this can be very simple and won't require legal input, there are no reports or accounts to submit but basic bookkeeping is advisable.

Governing Documents

A governing document is like the rulebook for your organisation. The type of governing document you have and how involved it needs to be will depend on your structure. It will set out who will run the organisation, its aims, objectives and how it will be administered.

Constitution - This is the most basic governing document to set up and won't normally need any legal input. It is mainly used by Unincorporated Associations and Charitable Incorporated Organisations, also occasionally by Sole Traders who wish to state more publicly that they are a social enterprise and will work within their governing document for the good of the community.

Trust Deed - Used by Registered Charities, there is no requirement for legal input but the trustees can choose to take it if they wish.

Memorandum and Articles of Association - This document is used by Charitable Companies, Limited Companies and Community Interest Companies. It is often advisable to have legal input when putting this governing document into place and will normally form part of the incorporation process.

What to include in your Governing Document -

- What the charity is set up to do (objects)
- How the charity will do those things (Powers)
- Who will run the organisation
- How it is to be run and admin arrangements for meetings, voting and record keeping
- Financial Systems and Accounting
- What happens if something needs to be changed
- What happens if the charity wishes or needs to wind up

Where to find Pro-Forma documents -

Constitution - The Resource Centre has some great information on writing a constitution and their Sample Constitution is a really user friendly starting point for writing your own -

<https://www.resourcecentre.org.uk/information/constitutions/>

Trust Deed - The Charities Commission provide a really comprehensive model Trust Deed which has lots of scope for adaptation for your particular circumstances - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/586357/GD2.pdf

Memorandum and Articles of Association - Gov.UK website is a good starting point for business models - <https://www.gov.uk/guidance/model-articles-of-association-for-limited-companies> for Charitable Companies - <https://www.gov.uk/government/publications/setting-up-a-charity-model-governing-documents> and CIC's - <https://www.gov.uk/government/publications/community-interest-companies-constitutions>

Roles and Responsibilities

If you choose a structure that has a Committee, Trustees or Directors you will want to give some thought to who does what. You will need to Appoint Office Holders - At least Chair, Secretary/Company Secretary and Treasurer/Finance Director, depending on the size of your organisation, you may wish to add deputies or other roles such as Communications, Marketing, Human Recourses, Funding etc.

Chair - Chairing is a key role on any Management Committee. The Chairperson must ensure that the Management Committee functions properly, that meeting are effective and matters are discussed and that decisions are made and carried out. They provide leadership to the organisation and in larger organisations that employ staff, they may take on the role line manager for the CEO or act as a figurehead for the organisation.

Secretary/Company Secretary - The role of the secretary is to ensure meetings are effectively organised and minuted and are generally responsible for all record keeping, administration, communication and correspondence. In larger organisations the secretary may also be responsible for upholding the legal requirements of governing documents, charity law, company law etc.

Treasurer/Finance Director - The Treasurers role is to be responsible for all aspects of financial management, working closely with other members of the Management Committee to safeguard the organisation's finances. This will generally involve bookkeeping/accounts, financial planning and budgeting, financial reporting, funding and fundraising. In larger organisations, much of this is often delegated to sub-committees, staff and volunteers.

Deputies - If you have enough people then it can be really helpful to appoint deputies to the above roles, this can help to divide the workload, especially where the office holders have other jobs outside of their committee roles. It also means that there's someone to step in at times of illness and that you have someone ready to step into the role should one of your office holders step down at short notice.

Other Office Holders - While you don't want a Committee that too big and difficult to manage (somewhere between 3 and 8 is a good number) If you have the extra people as well as or instead of appointing deputies, it can be useful to appoint specialist roles. If you want to focus on building up your customer base then appointing a marketing officer might be helpful or if you receive a grant and want to have a single point of contact for the press and enquiries then appointing a Communications Officer may be beneficial for example.

Skills Audit

When choosing roles for the people in your organisation, as well as other areas such as project planning, funding application preparation and when your committee undergoes major changes it can help to undertake some kind of analysis of your current skills and experience. A skills audit can be a really useful tool to identify your current skills set as a collective and identify areas for research, training, development or where you could 'buy in' expertise from elsewhere.

For Choosing Roles

- Download the Skills Cards only, print them out and cut them up
- Place all the cards on a table and take it in turns to choose a card that has on it a skill that you have
- Don't worry about picking up all the cards, it's unlikely that you will have them all between you and some of them won't be relevant to the roles, more to general library running
- Once as many as possible have been picked up look at what each person has (You can swap or pass cards around to make sure they end up with the most appropriate person if you like) and see if their skills lend themselves to a particular role. For example someone who has bookkeeping skills already may be the ideal choice for treasurer.
- Once you've chosen as many roles as you can based on peoples skills, see what you have left in the middle and who you have left, are there skills that these people are interested in undertaking training or independent learning for? Are there any skills missing from a role holder you have already chosen this could also be a training and development opportunity.

For Project Planning

- Download your Skills Audit kit, print it out and cut up the skills cards.
- Place all the skills cards in the centre of the table
- Place the 4 Large cards around the edges - these are; Skills We have and need, Skills we have and don't need, Skills we don't have and don't need and Skills we don't have and do need
- Focus on the project you want to carry out and work together to start to identify the skills you have as a collective and place them on either the 'skills you have and need' or 'skills you have and don't need' For example you may have skills using buckled carriers but this might be irrelevant for setting up a free stretchy wrap scheme.
- Then look at what you are left with these are all the skills you don't have as a collective, move these to either the 'skills we don't have and don't need or 'skills we don't have and do need' cards. For example you may have nobody who is a confident public speaker but this may not be needed if your project doesn't involve giving talks or presentations.
- The skills cards that end up on you 'skills you don't have and do need' card are the ones to focus on here, they are your areas for research, training, development and where you could 'buy in' expertise from elsewhere.

A quick note about finances

Bank Accounts -

If you choose a structure that requires a bank account in the name of your organisation it's important to choose the right type of account for your structure. For Unincorporated Associations and charitable trusts this will be a clubs, charities and societies account, this shouldn't incur any banking charges. I would highly recommend Lloyds TSB for their account they provide for this kind of group both in terms of ease of set up and ongoing management. All other structures that have this requirement will need a business bank account and this is likely to incur bank charges although you may be offered a free banking period when you first set up or change banks so it is worth looking into what options are available to you.

Financial Records -

Regardless of your structure you will need to have some sort of basic financial records in respect of your organisation. For those with very simple structures such as Sole Traders and Unincorporated Associations basic bookkeeping is all that is required, so a spreadsheet showing cashflow so it's there when needed for either your Tax return (Sole Traders) or when applying for funding. For larger organisations which need to submit audited accounts you will need to keep detailed accounts and employ the services of an accountant at least for the auditing process. If you are not a Limited Company, it is worth contacting local accounting firms to see if they offer subsidised rates for charitable organisations as many of them do as part of their Corporate Social Responsibility policies.

Funding -

It is absolutely possible for any of these structures to apply for some form of funding. If you have a Business structure your options may be much more limited. It's worth contacting your local council as they sometimes have business development grants and will put money into their local economy. Your local Chamber of Commerce is also a good place to contact as is looking for local contracting opportunities. Other structures will have far more choice when it comes to grant funding, but all funders will have their own priorities and criteria so it's worth taking the time to read the guidelines and information carefully before applying so you don't waste time applying for grants you aren't eligible for. As a general rule the more money you are applying for the longer it will take to process the application and the more monitoring you will need to do so think carefully before taking on a large grant to make sure you have a plan in place for keeping up with funders requirements.

If you want to have a look at what funding may be available, set up an account on Funding Central, it's free for small organisations and allows you to search for funding you may be eligible for. It will provide you with a shortlist depending on what you tell it you're looking for and why but it will only narrow down your search pool, you will need to check the small print! - www.fundingcentral.org.uk