

BRIEF FOR BURGESSES' COMMITTEE - STATUS

INTRODUCTION

1. Currently, the Burgesses' are recognised by HMRC as exempt tax relief. However, last year in reviewing the Mayor's paperwork and after discussion with previous Mayors there had been historic discussion and applications to consider charitable status through the Charity Commission. I deferred a review of this task until 2024.

SETTING-UP A CHARITY

2. A charity's legal structure sets-out the type of your charity and there are 4 common types of charity structure: Charitable Incorporated Organisation (CIO) and there are 2 structures association CIO and foundation CIO; charitable company (limited by guarantee); unincorporated association¹; and a trust.

3. There are 5 steps² to setting-up a charity as follows: A minimum of 3 trustees for the charity; an assurance that the charity has purposes for public benefit; a name; a structure for the charity, a governing document; and either an annual income over £5K or establishment of a charitable incorporated organisation (CIO).

CHARITY REGISTRATION

4. The charitable purposes include activities that contribute to the following: relieving poverty, education, religion, health, saving lives, citizenship or community development, the arts, amateur, sport, human rights, religious or racial harmony, the protection of the environment, animal welfare, and the efficiency of the armed forces, police, fire or ambulance services.

5. A charity must be registered if **either** its income is above £5K per year **or** it is a CIO. Registration requires details on the charity purposes, how the the charity is run for public benefit and proof of annual income through published annual accounts approved by an independent examiner, the governing document, and a formal offer of funding from a recognised funding body.

¹ An 'unincorporated association' is an organisation set-up through an agreement between a group of people who come together for a reason other than to make a profit (for example, a voluntary group or a sports club). An unincorporated association does not cost anything to set-up and it does not need to be registered. Individual members are personally responsible for any debts and contractual obligations.

² <https://www.gov.uk/setting-up-charity/charitable-purposes>

CHARITABLE INCORPORATED ORGANISATION (CIO)

6. It is possible to change the charity structure to allow the charity to undertake specific tasks. You might also decide to change to a corporate charity structure ('incorporation') because there is a requirement to register the title to your either a charity's land or property in its own name (rather than in a trustee's name or in the Official Custodian for Charities); there may be concern about the level of financial risk your charity faces and want to give the trustees more protection; and a charity may wish to deliver charitable services under contract (for example with a local authority).

7. A change to a different charitable structure involves compliance with the the Charity Commission framework of actions, it can be complex, and may require professional advice, and take time.

SUMMARY

8. The Burgesses are effectively an unincorporated association with an agreed constitution and a trust agreement. Our current activities and tasks do not contribute to the principle of charitable purposes for public benefit, the Burgesses' income is less than £5K per year, and neither do the Burgesses' require the option of change to an alternative CIO structure to support specific tasks.

RECOMMENDATIONS

9. My recommendation to the Burgesses Committee is that we remain as an unincorporated association with our HMR&C tax exemption and use our proposed new Trust Deed and appointment of new trustees to supervise our common land assets.

Colyford
Mayor Ancient Borough of Colyford
January 2024