



COMMUNITY GROUPS LEGAL STATUS, GOVERNANCE, SKILLS AND FUNDING

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Introduction



- Types of Organisations
 - Unincorporated (Sole traders, Partnerships and Trusts)
 - Incorporated (Companies, LLPs, Co-operatives, CIOs and CICs)
 - Charitable Status – can apply to both
- Skill Sets
 - Audit
 - Development
- Funding
 - Grants
 - Loans
 - Alternatives eg Crowd Funding
- Conclusion
 - How does this help Heritage at Risk?



A word cloud of legal and organizational terms. The words are arranged in a roughly triangular shape, pointing downwards. The largest word is 'Charitable'. Other prominent words include 'Company', 'Constituted', 'Community', 'Limited', 'Co-operative', 'Members', 'Commission', 'Asset', 'Incorporated', 'House', 'Shares', 'Social', 'Lock', 'Articles', 'Partnership', 'Charity', 'Trustees', and 'Companies'. The words are in various shades of white and light blue.

Members
Commission
Co-operative
Charitable
Asset
Incorporated
House
Shares
Limited
of
Community
Social
Constituted
Company
Trustees
Partnership
Charity
Companies

Sole Traders



- If you work for yourself you are a self-employed sole trader
- You can employ staff. 'Sole trader' means you are responsible for the business not that you have to work alone
- You keep all your profits after tax
- You are personally liable and responsible for any losses
- www.gov.uk/business-legal-structures/sole-trader



Partnerships



- Unincorporated but governed by the Partnership Act 1890
- Automatically applies between persons carrying on a business in common with a view to profit
- Partners can bind each other and be liable for promise made by each other
- There is a fiduciary duty to act in each others best interests
- Individual tax and accounts
- Used to be common eg Legal Profession
- www.gov.uk/business-legal-structures/business-partnership



Trusts and Associations



- Unincorporated – no separate legal entity individuals are liable
- Can be registered as a Charity and then has those benefits
- Should still have a Constitution or Trust Deed and will need one to be Charitable
- Not regulated unless registered as a Charity
- Advantages – easy to set up and operate, can be a Charity
- Disadvantages – Unincorporated so liability on Trustees for land ownership, employing people, signing contracts eg grant funding agreements
- For more info see: <https://www.gov.uk/guidance/how-to-set-up-a-charity-cc21a>
- Used for Community Projects, Sports Clubs, interest groups eg Railway Heritage and maybe small grant giving bodies

Incorporated Bodies



- All have separate legal status - Can contract and hold property themselves
- Gives the individuals protection but also harder to set up and run
- Charitable Incorporated Bodies (CIOs) - Introduced in 2013
- Industrial and Provident Societies (IPSs) – eg Co-operatives
- Limited Liability Partnerships (LLPs) – Often used for modern professional services eg Law Firms
- Companies
 - Company Limited by Guarantee
 - Company Limited by Shares (Ltd)
 - Public Limited Company (Plc)
 - Any company can be a Community Interest Company (CIC)
- Most common in heritage sector is Companies Limited by Guarantee
 - Members each have a share for token amount and are protected from liability
 - Registered at Companies House - comply with rules eg annual return and accounts

Charitable Incorporated Bodies Historic England

- Charities Act 2011 - CIOs started to be used in 2013
- Alternative to Company Limited by Guarantee or Charitable Trust but unlike them it cannot exist until registered
- Registered with and regulated solely by Charity Commission for free (do not need to Register with Companies House)
- Separate legal personality and limited liability
- Two tier structure: charity trustees and members
- Two different forms: Foundation and Association CIO
- Simple and cheap to set up: model constitutions
- Less onerous reporting and accounting requirements
- Limited transparency
- Good for medium-sized charities which want to employ staff and/or enter into contracts eg owning property

Industrial and Provident Societies Historic England

- Benefit of Community (BenCom)
 - Charitable
 - Democratic
 - Community Focused
 - Not for Profit
 - Housing Association, Credit Union
- Co-operative
 - Commercial social enterprise
 - Benefits its members
 - Financial Institutions
- Both are regulated by Financial Conduct Authority (FCA)



The **co-operative** food



Choosing to be a Charity



Historic England

- Charities exist to benefit the public. They:
 - pay reduced business rates
 - receive tax relief (eg gift aid)
 - can get certain types of grants and funding
- But charities are restricted in what they can do and how they work. Eg they must:
 - tell the Charity Commission and the public about their work
 - only do things that are charitable in law
 - be run by trustees who do not usually personally benefit from the charity
 - be independent - can work with other organisations but must make independent decisions about how it carries out its charitable purposes



Choosing to be a Charity



- There are four main types of charity structure:
 - charitable incorporated organisation (CIO)
 - charitable company (limited by guarantee)
 - unincorporated association
 - trust
- <https://www.gov.uk/guidance/charity-types-how-to-choose-a-structure>
- who will run it and whether it will have a wider membership
- whether it can enter into contracts or employ staff in its own name
- whether the trustees will be personally liable for what the charity does



Starting a Charity



- If you set up a charity you must apply to register it with the commission if:
 - it is a charitable incorporated organisation (CIO) or
 - its annual income is more than £5,000
- If not you can apply to HMRC for charitable recognition to claim back tax on things like Gift Aid donations
- Trustees are normally unpaid volunteers - only be paid if authorised
- Should not benefit anyone connected with the charity, eg giving work to connect party
- Cannot have a mix of charitable and non-charitable purposes
- Cannot take part in certain political activities
- Strict rules apply to trading by charities
- Must provide public, up-to-date info about activities and finances
- Outward facing not benefiting narrow interests of closed group

Social Enterprises



- Alternative to a Charity many options from the list of business structures
- Popular one is a Community Interest Company (CIC)
- A CIC is a special type of limited company which exists to benefit the community rather than private shareholders
- A CIC cannot be a Charity
- To set up a CIC, you need to apply to Companies House, and:
- include a 'community interest statement', explaining what you plan to do
- create an 'asset lock'- a legal promise that company's assets will only be used for its social objectives, sets limits on money paid to shareholders
- get your company approved by the community interest company regulator - your application will automatically be sent to them
- The CIC regulator has guidance on CICs, with forms to set one up <https://www.gov.uk/government/publications/community-interest->

Skills



- Choice of legal body is important but achieves nothing if you do not have the right people with the right skills
- The skills you currently have are not necessarily what you will need
- Campaign or protest group has to become an organisation to be trusted with funding and to complete a project
- Easy to say what should not happen or what others should do
- The challenge is to make it happen and do it yourselves



Protest/Campaign Groups Historic England

- Strengths:
 - Public relations can make and grab the headlines.
 - Community engagement, raising awareness with petitions etc.
 - Quick to act so they can block and stop high risks to heritage eg demolition.
 - Personal commitment, it means something to them, they have passion!
- Possible Weaknesses:
 - Confrontational which can be counterproductive.
 - May have poor relationship with stakeholders eg Council or owner.
 - May lack financial or legal knowledge, admin ability or a unified approach.



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Pathway to Preservation



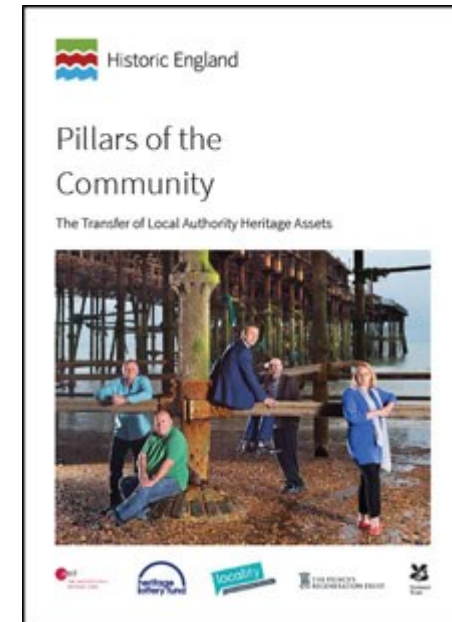
Historic England

- Campaign/save/protest group important first step but need a long term solution once short term risk is overcome
- This means working with others in partnership including meeting, discussing, listening and compromising
- Friends group can be more constructive. Be friends with all involved not just the heritage asset. If you alienate people your task will be harder.
- What's your solution ie optimal viable use? Without one - no future!
- What will it cost? How will it be funded? Who will own & maintain it?
- What tasks need to be completed to get there and by whom?
- What skills do you need and how can you get them?
 - Research and training for existing members (do your homework)
 - New members
 - Pro bono work from professionals/volunteers
 - Paid consultants

Help and Support



- HE – Pillars of the Community - the transfer of local authority heritage assets (<https://historicengland.org.uk/images-books/publications/pillars-of-the-community/>)
 - Considerations for community organisations
 - Assessing options for use
 - Developing and maintaining support
 - Managing the risks
 - Agreeing terms
 - Building an effective organisation
 - Raising finance
 - Maintaining long-term viability
- Heritage Lottery Fund (HLF)
- Princes Regeneration Trust (PRT)
- Architectural Heritage Fund (AHF)
- Society for the Protection of Ancient Buildings (SPAB)



Funding



- First establish clearly what you need:
 - Conservation Management Plan (<http://www.princes-regeneration.org/publications/how-write-conservation-reports>)
 - Condition Survey (including schedule of works) + Valuation (current and end value) = Conservation Deficit
 - This gap can be demonstrated by a Development Appraisal
 - You may also need a business plan/case to show how you hope to solve it (<http://www.princes-regeneration.org/publications/how-make-business-case-your-project>)
- Consider and research grants, loans and alternatives eg crowd funding or a community share issue



Grants



- The type of project will determine who will fund it
- Think about initial funding for the trust to set themselves up, get constituted and research what the heritage asset needs ie prepare the business plan
- HLF Start up grants are perfect for this:
<http://www.hlf.org.uk/looking-funding/our-grant-programmes/start-grants>
- Also consider the Local Authority, AHF, PRT or Locality
- For the main project the same parties are worth approaching as well as Historic England and possibly the Local Enterprise Partnership or ERDF
- Specialist funding is often available for certain asset types eg Coastal Revival Fund, Churches and War Memorials
- Which ever fund you find, read their guidance in full to check eligibility and their expected outcomes and talk to them!
- <http://www.hlf.org.uk/looking-funding>
- <http://www.ahfund.org.uk/grants.php>
- <http://locality.org.uk/our-work/community-grants/>
- <https://historicengland.org.uk/services-skills/grants/>

Loans

- Not often considered but increasingly common, no grant obligations
- Maybe easier to obtain and more appropriate if you can afford to repay!
- **AHF** -
<http://www.ahfund.org.uk/loans.php>
- **Charity Bank** - Our mission is to support your mission. £50k to £2.5m
(<http://charitybank.org/charity-loans>,
Simon Thorrington
sthorrington@charitybank.org)
- **Triodos Bank** - fund businesses of any kind whose key objectives are to add value to society or the environment
(www.triodos.co.uk,
markogden@triodos.co.uk)



Alternative Funding



- Princes Regeneration Trust - <http://www.princes-regeneration.org/publications/how-fundraise-private-sources>
- Centre for Innovation in Voluntary Action - New ideas and new approaches can make a real impact in addressing social and community problems. (Michael Norton - norton@civa.org.uk, <http://civa.org.uk/>)
- Friends Schemes
- Online fund raising
- Income - events, merchandise
- Major Private Donors
- Gift Aid
- Legacies
- Community Shares
- Crowd Funding



Community Share Schemes Historic England

- Sale of more than £10,000 shares or bonds to communities of at least 20 people to finance ventures serving a community purpose
- Most made by enterprises registered as an IPS eg co-operatives or community benefit societies - suitable for community investment
- Up to 30% tax relief possible - HMRC Enterprise Investment Scheme
- **FC United of Manchester** (founded 2005)
 - Community Benefit Society
 - 5197 members - open to all
 - Equal co-owners one voting share each
 - £2m target reached in March 2015 – Built their own ground



Crowd Funding



- Raising many small amounts from large number of people, typically via the Internet. Debt, equity or donations
- Set an inspiring target if reached then money is paid if not then nothing received, progress measured against a deadline.
- Website is the platform and great way to communicate and engage
- Could be used as match for grant - shows community support
- Hard work and needs constant effort and campaigning to succeed
- www.kickstarter.com, <http://www.crowdfunder.co.uk/>, <https://crowdfunding.justgiving.com>



Community Right to Bid for Assets of Community Value



- The Localism Act 2011 introduced a new regime giving local community groups the right to make a bid to buy a property that has a community use when it comes up for sale
- Every local authority must maintain a list of assets of community value. The current (or recent) and realistic future use of them must further the social wellbeing or social interests of the local community
- The regulations exempt certain land and buildings, such as residences
- Nominations for entry onto the list may only be made by community interest groups with a local connection
- Once a building or parcel of land is on the list then the owner is obliged to give notice to the local authority of any intention to sell
- There is then a process which brings this to the attention of the community and gives them the opportunity to make an offer.
- 6 weeks to register interest then 6 months- That is as far as it goes!
- There is no obligation on the owner to sell or give the group a right of first refusal
- It is there to avoid missing the opportunity to negotiate an agreeable sale

Community Right to Bid for Assets of Community Value



- The scheme is aimed at securing the ongoing community benefit of local shops, pubs, libraries etc.
- These buildings will frequently also be heritage assets
- Whilst their heritage value or significance cannot be described as a community use there is clearly nothing wrong in using this mechanism to secure the opportunity to negotiate the acquisition of important heritage assets that also have a community utility
- Government has produced non-statutory advice for local authorities on the operation of the scheme



Conclusion



- HAR Target achieved - Next target more challenging
- Less grant means community groups and more private funding are crucial
- HE and others are here to support and partner groups. Together even the most challenging sites can be

2015 Register for England



Question Time



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