



Guidance

Community Interest Companies Guidance

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What is a CIC?

CICs are limited companies which operate to provide a benefit to the community they serve. The purpose of a CIC is primarily one of community benefit rather than private profit.

Examples of a CIC could be a direct welfare service to vulnerable people, or an activity that generates profits which are used to support a specific purpose such as a running a cafe where all profits generated are used to benefit the community.

A CIC operates in the same way as any other company. It has all the well understood characteristics of a limited company such as a separate legal identity; the ability to enter into contracts and own assets in its own name; and flexibility in borrowing and fund raising. The separate legal identity means that a CIC will continue to exist despite changes in ownership or management. The directors can be paid or unpaid and have the same rights and duties as any other directors.

CICs will become established as a brand of company that the public recognises and trusts and whose social purpose they understand.

Community Interest Test

A CIC must satisfy the Regulator that a reasonable person might consider that the CIC's activities are or will be carried on for the benefit of the community. This is known as the "community interest test". The CIC will have to continue to meet this test throughout its life. A company will not satisfy the test if it carries on certain political activities, or if a reasonable person might consider that its activities are carried on only for the benefit of the members of a particular body, or the employees of a particular employer.

The concept of community is important to understand as it can have a wide range of meanings from the population as a whole to a section of the community, such as the residents of a particular area or a group of people suffering from a particular disadvantage. A CIC cannot be used solely for the financial advantage of a group of people, for political purposes, or for the benefit of the employees, directors or member or a single organisation.

Compulsory Asset Lock

All CICs have a compulsory Asset Lock that cannot be removed.

The Asset Lock is designed to ensure that the assets of the CIC (including any profits) are used for the benefit of the community.

It is important that you understand the concept before setting up a CIC as it has permanent long-term consequences.

Community Interest Report

The directors of a CIC have an important additional obligation to prepare an annual CIC Report (form CIC34) to be filed with their accounts. The purpose of the CIC Report is to show that the CIC is still satisfying the community interest test, and that it is engaging appropriately with its stakeholders in carrying out activities, which benefit the community. This would also apply when a CIC is dormant.

Exclusions

There are certain activities that the CIC legislation states are not eligible for CIC status.

These activities include:

- A political party
- A political campaigning organisation
- A subsidiary of a political party or political campaigning organisation

CIC legislation also states that a wide range of political activities will be regarded as not being carried on for the benefit of the community.

Companies involved in these activities are not eligible to become CICs and any CIC involved in such activities could cease to satisfy the community interest test and be subject to enforcement action by the Regulator.

Things to Consider

Setting up a CIC is a big step, because once you are registered the only “ways out” are:

- dissolving the company and ceasing to exist altogether, or
- converting the CIC to a charity or Charitable Incorporated Organisation (CIO)

This means that once a company is a CIC it cannot become an ordinary company

It is important that before going any further you take professional advice where needed

Your Community

The essential feature of a CIC is that its activities are carried on for the benefit of the community. It is important before creating a CIC, that you have a clear picture of the community you intend to serve.

A community for CIC purposes can embrace either the population as a whole or a definable sector or group of people either in the UK or abroad. The CIC legislation states that any group of individuals may constitute a community if they share a common characteristic and a reasonable person might consider that they constitute a section of the community.

However, a company which benefits a group which may be clearly defined, but which a reasonable person might not consider to be a genuine section of the community (e.g. “my family”, “my friends”, or “regular drinkers of ABC beer”), is unlikely to be eligible to be a CIC.

So, it is expected that the community will usually be wider than just the members of the CIC. For example, the community of a CIC formed to run a community bus service would include the whole of the population of the area served not just those residents who had invested in the company.

Your Activities

When deciding on the CICs activities you should consider the following:

- What activity do you want to undertake and how will it benefit the community?
- Who will be the owners, managers, directors, shareholders or guarantors?
- How will it be funded?

- How will the surpluses or profits be used?
- Will you be engaging in any campaigning or political activities? (Companies involved in these activities are not eligible to become CICs)
- Who will be nominated as the asset locked body in your Articles of Association?
- Will being a company with limited liability, a mandatory Asset Lock, extra reporting requirements and designed for social enterprise suit your needs?

Limited by Shares / Limited by Guarantee

A CIC must either be a company limited by guarantee, or a company limited by shares.

You should consider carefully the company type most appropriate for your proposed CIC. Once incorporated a company limited by guarantee cannot be converted into a company limited by shares (or vice versa).

- Do you want to pay dividends to investors?
- Will the ability to pay dividends have a favourable effect on your funding or tax status?
- Do you understand the dividend cap limitations on the payment of dividends?

If the answers are yes, you may wish to choose the limited by shares option.

If you do not want to pay dividends, a CIC limited by guarantee may be the best type of CIC for you.

- In this company format, members guarantee to meet the debts of the company up to a specific limit in the event of its failure
- They have no further personal liability for the debts of the company beyond their guarantee
- In practice each of the guarantors usually guarantees a nominal sum such as £1, but there is no reason why a principal supporter of the CIC should not in effect underwrite its activities by guaranteeing a larger sum
- Will you be looking for funding for your CIC? Funders tend to look more favourably on applications from CIC's limited by guarantee
- A company limited by guarantee has been the traditional form of companies operating without the motive of making a profit for distribution to the members

Asset Locked Body Nomination

It is important to consider whether you want to nominate an asset-locked body as a recipient of your CIC's assets in the CIC's Articles.

Such a nomination may prove particularly important in the event of the CIC being wound up or dissolved when it is not insolvent, as, in the absence of a nomination, the CIC will be in consultation with the Regulator to decide the destination of any remaining assets.

In addition, the Regulator will have to approve any transfers (for less than full consideration) to asset-locked bodies which are not nominated in the CIC's Articles. For more information see section.

Asset Lock

The Asset Lock is a fundamental feature of Community Interest Companies (CICs) and is a legal clause that prevents the assets of a company being used for private gain, rather than the stated purposes of the organisation. This clause is designed to ensure that the assets of the CIC (including any profits or other surpluses generated by its activities) are used for the benefit of the community it was set up to serve.

This is where a CIC differs from a normal limited company, as no assets can be transferred from a CIC to a limited company; and any assets that belong to or are donated to a CIC remain within the CIC and will form part of the CIC's assets. Assets can be loaned to a CIC, providing a documented agreement is made between both parties. If a loan is not agreed, then the asset will remain within the CIC.

It is important that you understand the concept before setting up a CIC as it has permanent long-term consequences. If you are unclear on the Asset Lock definition, it may be worth seeking legal advice.

What is an Asset locked body?

An asset-locked body is a registered organisation such as a community interest company, a charity, Charitable Incorporated Organisation (CIO), a

permitted registered society or a body established outside the United Kingdom that is the equivalent to those persons.

A CIC cannot nominate itself as a potential recipient of the company asset in the event of the company being wound up. The purpose of an asset locked body nomination is to ensure that any assets owned by the CIC are passed on to benefit another community-based company or

organisation. On this basis, a CIC also cannot nominate an individual, regardless of whether they have contributed to the CIC. It is important to consider whether you want to specify an asset-locked body as a recipient of your CIC's assets in the CIC's Articles. Such a nomination may prove particularly important in the event of the CIC being wound up or dissolved when it is not insolvent. In the absence of a nomination, the CIC is required to consult with the Regulator to decide the destination of any remaining assets.

The Regulator will also have to approve an transfers (for less than full consideration) to asset locked bodies which are not nominated in the CIC's Articles and any transfers for the benefit of the community.

Asset Lock – Transfer of Assets

Subject to the CIC meeting its obligations e.g. settling all its debts, its assets must be retained within the CIC to be used for the community purposes for which it was formed or transferred. However, assets cannot be transferred over to individuals such as the directors, members or shareholders

If they are transferred out of the CIC, the transfer must satisfy one of the following requirements:

- It is made for full market value so that the CIC retains the value of the assets transferred
- It is made to another asset-locked body (a CIC or charity, a registered society or non-UK based equivalent) which is specified in the CIC's Articles of Association
- It is made to another asset locked body with the consent of the Regulator;
or
- It is made for the benefit of the community.

Asset Lock – On Closure

If a nominated asset lock body has been included within your articles you are free to transfer assets to that body providing all debts have been cleared for the company without seeking further consent from the Regulator.

If you have not nominated an asset lock body within your articles of association, you will need the regulators consent to transfer any residual assets. To do this you would need to complete a form [CIC53](https://www.gov.uk/government/publications/cic53-application-to-transfer-assets) (<https://www.gov.uk/government/publications/cic53-application-to-transfer-assets>). The information supplied will be used to help the Regulator decide whether the transfer is within the CIC regulations.

Shares, Dividends and the Dividend Cap

This guidance is only applicable to CICs with a share capital. The Regulator provides general guidance on this subject and it is for individuals to seek their own professional legal advice on specific matters.

Details of the regulations and requirements concerning shares and share capital are available from Companies House.

This guidance only covers CIC legislation which must be adhered to in addition to normal company law.

CICs can issue shares 'partly-paid', but a community interest public limited company must have at least £50,000 of allotted share capital.

A CIC can also issue preference shares. The details of these rights must be set out in the Articles of Association and should be clearly laid out and discussed with the Regulator to ensure conversion does not contravene the Asset Lock, and, in particular, the dividend cap.

Schedule 2 Articles

A CIC adopting limited by shares Schedule 2 Articles may only pay dividends to specified asset-locked bodies, or other asset-locked bodies with the consent of the Regulator.

Schedule 3 Articles

A CIC adopting limited by shares Schedule 3 Articles may pay dividends to shareholders including private investors as well as asset-locked bodies. However, the payment of a dividend to a shareholder and private investors is subject to the dividend cap. Dividends to a CIC or a Charity are not subject to the dividend cap.

Explanation of Current Dividend Cap

The dividend cap strikes a balance between encouraging people to invest in CICs and the principle that the assets and profits of a CIC should be devoted to the benefit of the community. This helps to ensure that the dividends are not disproportionate to the amount invested and the profits made by the company.

The dividend cap has a single element called the maximum aggregate dividend cap which is no more than 35% of CIC's profits. This ensures that the remaining 65% of profits are reinvested back into the company or used for the community it was set up to serve.

The dividend will be subject to the dividend cap if shares are:

- Not held by an asset-locked body, or
- They are held by an asset-locked body not specified in the Articles of Association as a possible recipient of the CIC's assets, and the Regulator has not consented to the payment of the dividend.

Redemption and repurchase of shares and reduction of capital

A company with a share capital may, subject to its constitution and compliance with company law, redeem shares, purchase its own shares or reduce its share capital. If your CIC is considering doing any of these things, you should seek professional advice.

This section concentrates on the additional rules that apply to CICs in this area.

In many circumstances, redemption and repurchase of shares, or reduction of share capital, is in effect a distribution of assets to members particularly where the member receives a premium over the paid up value of the shares. CICs are subject to additional rules in relation to such operations because if they were able, for example, to reduce their share capital without

restriction, this could undermine the asset lock. Sections 30(1) & (2) of the CAICE Act and regulations 24 and 25 of the CIC Regulations 2005, therefore contain a number of provisions to prevent this.

Redemption and reduction of shares

Regulation 24 prevents a CIC from distributing its assets through the redemption or purchase of its own shares unless the payments are set at, or below, the paid up value of the shares. This supplements the asset lock provisions in the Articles of Association of a CIC.

A company must have the necessary powers to issue redeemable shares, or to purchase its own shares, in its Articles of Association. Additionally, the Articles of Association must comply with the Companies Act 2006 and the CIC Regulations with regard to such distributions.

The amount paid must not exceed the paid up value of the shares, that is, the amount of the nominal value paid up together with any premium paid to the company. Please note that section 686 and section 691 provides that redeemable shares must be fully paid on redemption.

The Companies Act 2006 contains detailed rules (which are different for public and private companies) as to the funds that may be used for the redemption.

When the shares have been redeemed they are cancelled and the issued share capital is reduced by their nominal value.

Reduction of capital

Regulation 25 prevents a CIC from distributing its assets by reducing its share capital, unless it does so:

- By reducing part of the value of shares that is not paid up, or
- By paying to members no more than the paid up value of their shares.

The company must have the necessary powers to reduce its capital in its Articles of Association. Additionally, the Articles of Association must comply with the Companies Act 2006 and the CIC Regulations with regard to such distributions.

Winding Up

If a CIC winds up, shareholders have no right to participate in the assets of a CIC, with exception of the return of the capital originally invested and any unpaid dividend.

Regulation of share issues

The raising of finance by means of shares issues is subject to a number of overlapping schemes of regulation and should never be undertaken without professional advice. The detail of the relevant legislation goes beyond the scope of this guidance.

Annual CIC Report & Accounts

The accounting requirements for a CIC are the same as those of ordinary limited companies. These requirements are explained on the Companies House website: [Companies House accounts guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/life-of-a-company-annual-requirements/life-of-a-company-part-1-accounts) (<https://www.gov.uk/government/publications/life-of-a-company-annual-requirements/life-of-a-company-part-1-accounts>)

The directors of a CIC have an important additional obligation to prepare an annual CIC Report to be filed with their accounts. The purpose of the CIC Report is to show that the CIC is still satisfying the community interest test.

CIC Report

The CIC Regulations prescribe minimum requirements in each report. These include:

- details of what the CIC has done to benefit the community
- details of how it has consulted its stakeholders on its activities
- details of directors' remuneration
- information on the transfer of assets to another locked body or otherwise at less than market value for the benefit of the community

The CIC Report will be a matter for the company but, as with the annual accounts, the Regulator considers that CICs should aspire to provide the fullest possible information rather than simply comply with the minimum requirements.

The majority of CICs would fit within the simplified report criteria for both limited by shares and limited by guarantee.

However, in addition and if applicable, a CIC must show information about debts or debentures on which a performance-related rate is payable.

If the CIC is limited by shares it must also show dividends declared to shareholders,

Compliance with the capping rules for both the performance related rate on debts and debentures and dividends declared must be shown.

Remuneration

For some individuals, being a director of a successful CIC may be a sufficient reward in itself. Such individuals may not wish to be remunerated at all.

Many CICs will be actively trading businesses that need good directors if they are to be successful. Such CICs will usually need or wish to remunerate their directors in order to ensure that they achieve their full potential to benefit the community.

As far as CICs are concerned, the key points are as follows:

- Directors may be paid remuneration (which includes a salary) for their services to a CIC
- CIC directors' remuneration should never be more than is reasonable
- CIC directors' remuneration arrangements should always be transparent
- The Regulator – or the members of a CIC – may take action if a CIC director's remuneration appears to be too high

If the remuneration is disproportionate or set at such a high level that the company will have problems sustaining itself the Regulator may have concerns. It is all about affordability and remember as a CIC the Regulator expects the majority of the company's profits and surpluses to be reinvested in the community or used for the benefit of the community the company was set up to serve and not to go to directors or shareholders.

If a CIC pays its directors more than they are really worth to it and the community that it serves, it may well be breaching the asset lock. Such a breach may result in the Regulator taking action.

Stakeholder Engagement

It is an important principle that a CIC should have particular regard to its major stakeholder i.e. the community, which is intended to benefit from its activities.

The CIC Report has to give details about what the CIC has done to benefit the community, how it has consulted those affected by its activities and the outcome of such consultation.

This can be achieved by simple methods such as circulating newsletters, holding stakeholder meetings, hosting a website with dialogue facilities or issuing formal consultation documents before taking a major policy decision.

You should also consider those indirectly affected such as the other residents of the area of your operations.

Transfer of Assets for less than full consideration

A transfer of assets made for less than full consideration must always be consented to by the Regulator.

These must then be included within the CIC report, information on a transfer of assets (within the reporting period) must be declared if they are made for less than full consideration.

This includes any transfers already made with the Regulator's consent.

Dormant CICs

Every CIC, including dormant ones, must file a CIC Report form together with the set of accounts.

The Regulator is content for a CIC to be dormant as long as it is making preparations to trade. The CIC report should state what the CIC has been doing in order to prepare for trading. However, if there has been no activity at all then the CIC should state that it has been dormant throughout the financial year under each part of the form.

It would also be helpful to state on the CIC report the reasons why you have not yet started trading and when you expect to do so. Although there is no set limit on how long a CIC can lay dormant, the purpose of setting up a CIC is to benefit the company's chosen community and in this regard the

Regulator would like to see the company being able to trade as soon as possible.

Dividends declared

The report must state the amount of any dividend declared, or proposed to be declared, by the company on each of its shares for the financial year to which the report relates.

The report must also explain how the declaration or proposed declaration of any dividend declared, or proposed to be declared, by the company in respect of the financial year to which the report relates complies, or will comply, with regulations 17 and 19 of the Community Interest Company Regulations (and amendments).

The explanation provided under the above paragraph must include details of—

- in the case of an exempt dividend, why it is an exempt dividend; and
- in the case of any other dividend, the maximum aggregate dividend

and how each of these has been determined.

Performance Related Interest Cap

CICs have the same borrowing powers as any other company and generally will be able to borrow and pay normal commercial rates of interest to lenders. This guidance however explains the somewhat rare circumstances where the interest payable on debts or debentures is linked to the performance of the CIC.

The CIC Regulations provide that payment of such performance related interest should be subject to a cap.

The cap is expressed in terms of a percentage rate on the average amount outstanding on any given loan. It will be the rate in force at the date the agreement for payment of the interest was made, or, for existing debt, the date the company became a CIC. The rate for a particular debt is fixed for the life of that debt and will not change if the rate is changed.

The performance related interest cap was increased to 20% on 01 October 2014.

Where a community interest company has at any time during the financial year a debt outstanding, or a debenture in issue, to which the interest cap applies, its community interest company report must state—

- the rate of interest payable on that debt or debenture as calculated over a 12 month period ending with the most recent date on which interest became payable in respect of that debt or debenture during the financial year; and
- the applicable interest cap applying to that debt or debenture,

and how each of these has been determined.

Please also note that where the company has at any time during the financial year a debt outstanding, or a debenture in issue, to which the interest cap does not apply, but on which a performance-related rate is payable, its community interest company report must state—

- the rate of interest payable on that debt or debenture as calculated over a 12 month period ending with the most recent date on which interest became payable in respect of that debt or debenture during the financial year; and
- why the interest cap does not apply to that debt or debenture.

Confirmation Statement

Like all other limited companies, CICs must confirm the information Companies House hold about it is correct by delivering a confirmation statement. If the information held is out of date, the company must file the information needed to update its records either before or at the same time that it delivers the confirmation statement.

This statement must be made at least once a year, but the company may choose to make a statement more regularly.

The confirmation statement is in effect a snapshot as at the made-up date of the essential information about the company. [File a confirmation statement - Companies House \(company-information.service.gov.uk\)](https://find-and-update.company-information.service.gov.uk/confirmation-statement) (<https://find-and-update.company-information.service.gov.uk/confirmation-statement>)

You can find further guidance regarding the filing of a confirmation statement on the Companies House website: [File a confirmation statement - Companies House \(company-information.service.gov.uk\)](https://find-and-update.company-information.service.gov.uk/confirmation-statement) (<https://find-and-update.company-information.service.gov.uk/confirmation-statement>)

Regulator's Role

The Regulator was established as an independent statutory office-holder appointed by the Secretary of State in 2004, as a “light touch” Regulator to encourage the development of the Community Interest Company (CIC) “brand” and provide guidance and assistance on matters relating to CICs. The light touch approach to regulation does not envisage pro-active supervision of individual CICs by the Regulator. The Regulator’s powers and duties are set out in the CAICE Act and CIC Regulations 2005.

A considerable amount of the Regulator’s time is spent considering the registration, or conversion applications for CICs based on examination of the community interest statement.

The Regulator assists customers during the lifespan of CIC’s, such as processing Special Resolutions which allows CIC’s to make changes such as altering their asset locked body nomination, making updates to their activities and also considering requests for transfer of assets.

Another role of the Regulator is to consider the Annual Community Interest Report and any complaints and, where necessary, may make further enquiries and take appropriate action. It may, however, often be possible to resolve issues in discussion with the interested parties.

It is important to note that the office is only able to provide general guidance on Community Interest Companies and are unable to offer legal advice on particular cases. It would be for individuals to seek their own professional legal advice on specific matters.

To ensure transparency of the Regulator’s role, it is a requirement to present an annual report on the exercise of the Regulator’s functions to the Secretary of State who will lay the report before Parliament. A copy of the report will then be published on the office’s website.

Regulator's Powers

The CAICE Act provides the Regulator with powers of investigation similar to the powers given to the Secretary of State under the Companies Act.

It is expected that these powers will only be used on rare occasions as a step to obtain necessary evidence to enable the Regulator to decide whether enforcement powers should be used.

These powers enable the Regulator to investigate the affairs of the company in relation to its CIC status; they do not replace the Companies Act powers. Where the Regulator considers that wider issues are raised, the case may be referred to The Insolvency Service.

The investigation provisions are set out in detail in section 42 and Schedule 7 of the CAICE Act and state that the Regulator may carry out an investigation personally, appoint a member of the Regulator's staff to do so or appoint a third party, such as an accountant or lawyer.



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