

<b>Title: Charitable Incorporated Organisation Conversions</b> <ul style="list-style-type: none"> <li>The Charitable Incorporated Organisations (Conversion) Regulations 2017</li> <li>The Index of Company Names (Listed Bodies) Order 2017</li> </ul> <b>IA No:</b> <b>RPC Reference No:</b> RPC-3054(1)-CO <b>Lead department or agency:</b> DCMS <b>Other departments or agencies:</b> Charity Commission	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 06/09/2017			
	<b>Stage:</b> Enactment			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Secondary Legislation			
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<b>RPC Opinion:</b> GREEN				

## Summary: Intervention and Options

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£32.65m	£32.65	£-3.6m	In scope	Qualifying provision

### What is the problem under consideration? Why is government intervention necessary?

The rationale for this permissive regulation is to simplify the current complexities and remove barriers for civil society organisations wanting to convert between existing corporate legal structures (Companies Limited by Guarantee and Community Interest Companies) into a Charitable Incorporated Organisation (CIO). The current process for changing charitable structure involves setting up a new charity with the same purposes in the desired structure, transferring the original charity's assets (net of any liabilities) and closing the original charity. There is currently no statutory conversion process for converting a charitable company into a CIO without requiring the closure and re-opening of a charity.

### What are the policy objectives and the intended effects?

This deregulatory measure will reduce the regulatory burden and associated costs faced by charitable organisations by allowing them to more easily convert into a CIO. A CIO is a legal structure that was designed specifically for charities in 2012. It offers the benefits of limited liability making it easier to recruit and retain trustees, and a legal personality, making it easier to hold property and enter contracts. CIOs are solely registered with and regulated by the Charity Commission. A CIO therefore enables organisations to obtain the benefits of both incorporation and charitable status within a single legal structure, and avoid the burden of dual regulation that applies with other corporate structures.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further deals in Evidence Base)

Option 1 - Complete the legal framework for CIO conversions (the preferred option)

This option involves the introduction of Secondary Legislation to complete the permissive legal framework for a CIO conversion. While there are some transitional costs associated with conversion, it will have significant direct benefits for smaller charities and CICs wishing to directly convert to a CIO.

Option 2 - Default option of leaving the current structure in place. This method is proving to be complex and incurs costs for charities wishing to convert into a CIO as it currently requires them to establish themselves as a new entity and transfer their assets and liabilities. This method imposes barriers such as the need for a new bank account, and the need for a new charity number (and subsequent reprinting costs).

### Will the policy be reviewed? It will be reviewed. If applicable, set date review: 09/2021

Does implementation go beyond minimum EU requirements		N/A		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A	

*I have read the Impact Assessment, and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the lead options.*

**Signed by the responsible Minister:**

Tracey Crouch

**Date:**

06/09/2017

**Description:** Complete the legal framework for CIO conversions

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period	Net Benefit (Present Value (PV)) (£m)		
			Low: 19.97	High: 45.33	Best Estimate: 32.65
2016	2016	Years 10			

COSTS (£m)	Total Transition		Average Annual	
	(Constant Price)	Years		
Low	Optional	1	0.4	
High	Optional		0.8	
Best Estimate	3.6			

## Evidence Base

### The policy issue and rationale for Government intervention

- Several legal structures are currently available to charities. These can be categorised in two groups; (i) unincorporated structures, and (ii) corporate structures.
- Most registered charities (over 130,000) are established as an unincorporated trust or an unincorporated association. Unincorporated charities have no legal personality of their own, and so contracts must be entered, and property held, by the charity's trustees. More importantly, the trustees of unincorporated charities have potentially unlimited liability for the financial liabilities of their charity.
- Around 30,000 charities have chosen to incorporate as a company limited by guarantee. This gives the charity its own legal personality, and the directors (trustees) benefit from limited liability. However, incorporating as a company results in dual registration with and reporting to both Companies House and the Charity Commission. The company structure is also not designed with the needs of charities in mind, and the interaction between company law and charity law can be complex and time consuming for charities opting for this form of incorporation. This results in significant legal and administrative burdens to charities.
- The Charitable Incorporated Organisation ("CIO") structure is designed to offer a practical alternative for charities seeking the protection and practicality of incorporation without having to meet the dual registration and reporting requirements of the Charity Commission and Companies House. CIOs are regulated only by charity law and report only to the Charity Commission. The legal form is optional, adding to the range of structures which charities can choose to adopt.
- In the charities survey for the Charities Act Review, which took place prior to the introduction of the CIO structure, 25% of respondent charities said that they either would, or would consider, establishing as a CIO once the model becomes available (30% of respondents had not yet heard of the CIO structure).
- Since the introduction of the CIO General Regulations in 2012, approximately 7,934 charities have registered as CIOs [1]. It is expected that the majority of these were newly registering charities. Of the new charity registrations accepted by the Charity Commission in the last financial year, nearly 53% were registered as CIOs.
- Whilst it is currently possible to register a new charity as a CIO, existing charities do not have the option of converting to this legal form. Instead, if they wish to become CIOs, existing charities have to close, and re-register with the Charity Commission. This is a lengthy and burdensome

process which has prevented many existing charities from taking advantages associated with the CIO legal form. Government intervention is needed to allow simple conversion to a CIO structure to existing charities and offer them the same treatment as newly-established organisations.

### **Policy objectives and intended effects**

8. The purpose of the Regulations is to provide a workable framework that is attractive to those charities that wish to avail themselves of the benefits that conversion can provide, thereby increasing their efficiency and effectiveness whilst maintaining public trust and confidence in them.
9. The framework aims to achieve administrative ease for charities that opt to convert to a CIO. It balances the benefits of incorporation (notably protection for CIO members and trustees from the liabilities of the CIO) with the need for transparency and safeguards to protect those doing business with CIOs (particularly those lending to or contracting with CIOs).
10. A direct conversion process to a CIO will allow for existing charities to convert whilst continuing as one existing entity without affecting its legal personality or its business relationships.
11. Converting to a CIO will allow for savings through the reduction of company administration and secretarial costs by reducing the number of notifications that need to be made to regulators; reduced costs of reprinting marketing materials due to the retention of the same charity number and reduced accounting costs for charities through simpler receipt and payment accounts to the Charity Commission.

### **Policy options considered, including alternatives to regulation**

12. Alternatives to regulation were considered and have been tried (e.g. addressing myths and perceptions about the risk of personal liability), but have not proved effective. No other alternatives to regulation are feasible at this stage. This final stage impact assessment therefore compares the preferred option with doing nothing.
13. A multi criteria analysis in support of the implementation was set out in the previous assessment of the CIO and approved in 2012. This addressed the relevant criteria such as trustee liability concerns, creditor protection, the ability to contract and take on assets, ease of administration, appropriate enforcement regime, specific merger provisions and appropriate trustee duties and powers.
14. It is our view that permissive regulation will provide the legal certainty that is necessary to secure the benefits of a new legal structure. We have consulted on draft regulations which would support a CIO conversion process. The consultation ran from 1 April 2016 to 10 June 2016. There was a very positive response to the proposals for a simplified CIO process, with 95% of respondents supporting the introduction of the draft regulations. There was also support for our assumptions on the take up of the conversion process, with 80% of respondents agreeing that there would be a demand for the draft regulations. Respondents also agreed that changes to the regulations will reduce burden on charities, in particular smaller charities, as accounts could be produced on a "receipts and payments" basis reducing accountancy costs.

### **Expected level of business impact**

15. The CIO conversion framework imposes no direct cost burdens on charities or businesses. It is a permissive regulatory framework and will be optional for charities. Only charities that choose to convert to the CIO for will be affected by this legislation. However, it is a permissive, deregulatory

measure that aims to allow charitable organisations to convert to a CIO legal form and take advantage of the associated benefits.

16. There are currently over 166,000 charities on the Register of Charities. Of charities that have not yet adopted a CIO form, around 77% are unincorporated, and 23% incorporated (almost exclusively) as a company limited by guarantee. It is currently much cheaper and simpler to run a charity with an unincorporated structure, than it is to run a charity structured as a company limited by guarantee (CLG). The CLG form gives the charity its own legal personality, and the directors (trustees) benefit from limited liability (i.e. in most circumstances they cannot be held liable for the debts of the charity). However, incorporating as a company results in having to submit to a dual regulatory system under both company law and charity law with associated administrative/legal costs, as well as registration with and reporting to both Companies House and the Charity Commission.
17. Converting to the CIO offers the benefits of the company structure and the third party protections, but with reduced administration costs. Approximately 7,934 new CIOs have already been established since the legal form has been introduced. Of the new charity registrations accepted by the Charity Commission in the last financial year, nearly 53% were registered as CIOs. Charity Commission estimates suggest that between 20% (7,200) and 35% (12,600) of existing incorporated charities could decide to convert under the proposed CIO conversion legislation over ten years [2]. Under the 'do nothing' option, we assume that no charities would change their current structure to the CIO form: although this is possible, it is a highly burdensome exercise requiring a closure and re-opening of each charity under a new registration with the Charity Commission at high administrative cost. Charity Commission guidance currently advises against this costly change of structure [3].
18. As of 30 June 2016, there are currently 12,302 Community Interest Companies (CICs) on the Register of Community Interest Companies. A CIC is a type of limited company which exists to benefit the community, rather than private shareholders. Their assets are held in an 'asset lock' – a legal promise that the company's assets will only be used for its social objectives, and setting limits to the money it can pay to shareholders. CICs therefore share common goals (social objectives) with charities, and may be interested in converting to the CIO form and registering with the Charity Commission. However, the Charity Commission estimates that take-up of the CIO form is likely to be lower with CICs: between 1% (120) and 5% (600) of current CICs could look to convert to a CIO structure. Note that whilst conversion to CIO is expected to be relatively straightforward for charities, this process will be different for CICs, who currently only register with Companies House, and would need to register with the Charities Commission instead.
19. The CIO conversion framework is a permissive, deregulatory measure. Apart from a small familiarisation cost, it will not impose any direct regulatory burdens on charities or Community Interest Companies. However, organisations who decide to convert (at a small cost), will benefit from annual administrative savings.

### **Costs (monetised)**

#### *Transitional costs – familiarisation*

20. The policy introduces a permissive framework that will be relevant to only a small proportion of the social sector (incorporated charities and CICs). The legislation is straightforward, and a consultation has been carried out which confirmed that this change is welcomed by the sector.
21. However, some familiarisation cost is expected, as the trustees of the 36,000 affected charities (incorporated charities, 23% of all charities that are not CIOs already) and CICs (all will need to become familiar with the CIO conversion rules changes in order to establish whether this is relevant to them). We have conservatively assumed that it would take one trustee around 3.5 hours (half a day) to read and understand the new legislation and disseminate this to the organisation's leadership team. Trustees undertake their duties on a voluntary basis, but for the purposes of this impact assessment we have valued their time at £21.2 per hour. This is based on data from the Annual Survey of Hours and Earnings (ASHE) 2015, on the median gross hourly wage for 'Other managers' [4] including 30% non-wage costs and expressed in 2016 price terms.

22. The total transitional familiarisation costs with the new criteria are therefore estimated to be  $(36,000 + 12,000) \times (\pounds 21.2 \times 3.5) = \pounds 3.6\text{m}$ . This figure does not represent actual expenditure, rather it represents monetised voluntary effort.
23. We do not expect any additional compliance burden caused by the change to regulations as the measures are permissive.

*Cost of conversion to new legal form – one-off*

24. The costs of conversion will only fall on those charities and CICs that do decide to convert to a CIO form. Note that costs and benefits are only monetised for converting charities. The conversion process is more complicated for CICs, and the costs and benefits to these companies are therefore outlined in the respective non-monetised sections.
25. As outlined above, the Charity Commission estimates that around 20%-35% of existing incorporated charities will choose to convert to CIOs in the following 10 years. This would mean that 7,200– 12,600 organisations will become CIOs. It is not clear at present when conversions may happen. We therefore assume that these are spread evenly across the 10-year period – with 72 -126 charities converting each year following the introduction of the legislation.
26. Converting to a CIO will involve administrative costs. It is conservatively estimated that, at most, these costs will be similar to the costs of establishing a new CIO. This was estimated previously by the Charity Commission to stand at  $\pounds 573$  per organisation (2012 prices) [5], or  $\pounds 602$  expressed in 2016 prices. This includes trustee time and an element of legal advice. These figures are an average which may mask variability depending, for example, on charity size – a small charity conversion may require no legal advice, and using the model CIO constitution [6] would not require significant trustee time. Alternatively a large incorporated charity with staff, property, and liabilities such as pension schemes, may require significantly more professional advice to convert to a CIO.
27. The total costs associated with charitable companies converting to the CIO structure are therefore estimated between  $\pounds 4.3\text{m}$  ( $7,200 \times \pounds 602$ ) and  $\pounds 7.6\text{m}$  ( $12,600 \times \pounds 602$ ) over the next 10 years,  **$\pounds 6.0\text{m}$  best estimate** (undiscounted, estimated as average of high and low costs).
28. Note that whilst this cost is ‘one-off’ to each charity, the transition is expected to occur over the whole 10-year IA period as not all eligible charities will take up the legal form immediately. In the summary sheets, this cost is therefore included in the ‘ongoing costs’ section and separated from the familiarisation cost which only occurs in the first year.

**Costs (non-monetised)**

29. As mentioned above, some CICs may also choose to convert to CIOs. It is expected that the CIO form will be less attractive to CICs since they do not face the same administrative burdens currently as charities do – CICs only file accounts with Companies House. However, some CICs may choose to convert to CIOs, especially if the associated charity status is attractive (the Charity Commission estimate that 1%-5%, or 120-600 organisations could convert).
30. The conversion process is not as straightforward as for charities, as CICs would need to create a new registration with the Charity Commission. This will likely result in some administrative burden in filing an application with the Charity Commission, as well as costs associated with new registration such as new stationery to display the charity registration number and changes to websites and other communication channels. Given the small numbers of CIC expected to convert, and the complexities involved in estimating costs, these costs have not been monetised.

**Benefits (monetised)**

*Ongoing cost savings*

31. Charities transferring to the CIO form will benefit from reduced requirements for the preparation and scrutiny of their accounts. Instead of registering with and submitting accounts to both Companies House and the Charity Commission, the newly converted Charitable Incorporated Organisations will only register with the Charity Commission. In line with previous impact

assessment regarding the introduction of the CIO[7], it is expected that the average annual costs of both preparation and scrutiny of CIO accounts will be the same as for unincorporated charities, at an average of £421 per annum (2012 prices). This represents a saving of £886 (2012 prices) [5], compared to the average costs of preparation, scrutiny, and submission for charities with a company structure (estimated at £1,307). In 2016 prices, the saving per charity per annum is £931.

32. As stated in the cost section, it is not clear at present when exactly current incorporated charities may decide to convert to the CIO. We therefore assume that conversions are spread evenly across the 10-year period – with 10% (72 -126) of the expected number of charities converting each year following the introduction of the legislation. It is expected that conversions will take place as soon as the legislation is introduced (from year 0), as consultation showed that many charities have been demanding this change. The table below summarises the annual benefits of the legislation.

Table 1 – Savings accruing to charities (£m, 2016 prices, undiscounted)

Year	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	TOTAL
Low	£0.7	£1.3	£2.0	£2.7	£3.4	£4.0	£4.7	£5.4	£6.0	£6.7	<b>£36.9</b>
High	£1.2	£2.3	£3.5	£4.7	£5.9	£7.0	£8.2	£9.4	£10.6	£11.7	<b>£64.5</b>
<b>Best</b>	£0.9	£1.8	£2.8	£3.7	£4.6	£5.5	£6.4	£7.4	£8.3	£9.2	<b>£50.7</b>

### Benefits (non-monetised)

#### *Conversion savings*

33. The analysis above only covers newly converting charities, i.e. those expected by the Charity Commission to convert when legislation is amended and conversion is simplified. However, the Charity Commission also reports that a small number of charities have used existing legislation to change their incorporated structure to a CIO. This is currently only possible through winding up and re-opening a charity, which involves transferring all assets, liabilities, staff and funding agreements to a new CIO structure. Depending on the size and complexity of the existing organisation, whether or not it holds property and the range of agreements it has with third parties, it has been estimated that this would typically cost at least £2,000 and in the most complex cases could well be over £30,000. The savings to the small number of charities who would have chosen to change to the CIO structure under the 'do nothing' option are not monetised, due to the lack of reliable estimates of such charities. The benefits presented above are therefore considered to represent a conservative estimate of overall benefits.

#### *Benefits associated with charitable status*

34. Further ongoing benefits are also expected to accrue to CICs from simplifying the conversion process. As CICs convert to a CIO structure they will gain charitable status and therefore be able to benefit from a number of charitable tax reliefs and access to funds from charitable grant-makers. For instance, they will be able to claim stamp duty on shares, receive an 80% discounted rate of business rates, and benefit from indirect tax reliefs, for instance, on gift aid. However, the majority of such benefits are transfers (i.e. are offset by an Exchequer cost) and have therefore not been monetised. Moreover, CICs can currently become CIOs much like charities (through a more costly process of winding up and re-opening), and therefore could establish as charities if they saw significant benefits – it would not be proportional or prudent to

try and estimate the number of CICs newly converting solely because of the lower cost of conversion.

## Overall impact

35. Between 7,200 and 12,600 existing charities are expected to choose to convert to the CIO form as a result of this regulatory change over ten years. The legislative change is expected to result in small familiarisation costs, estimated at c£3.6m to currently incorporated charities (mostly companies limited by guarantee). The one-off costs of conversion is expected to total £6.0m (£4.3m-£7.6m) and is modelled here to be spread across the 10-year IA period as charities may choose to convert at any time. Any conversion costs are expected to be more than offset by the benefits related to simplified accounting and reporting for converted charities, estimated to total £50.6m (£36.9m-£64.5m) over the 10-year period.
36. The table below presents discounted flows of costs and benefits between Y0 and Y9, as well as high and low estimates:

Table 2 – Costs and benefits (discounted) and NPV of CIO regulations (£m, 2016 prices)

Year	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	TOTAL
<b>COSTS - discounted</b>											
Best Estimate	£4.19	£0.58	£0.56	£0.54	£0.52	£0.50	£0.48	£0.47	£0.45	£0.44	£8.72
Low (i.e. best)	£4.02	£0.42	£0.40	£0.39	£0.38	£0.36	£0.35	£0.34	£0.33	£0.32	£7.32
High (i.e. worst)	£4.35	£0.73	£0.71	£0.68	£0.66	£0.64	£0.62	£0.60	£0.58	£0.56	£10.12
<b>BENEFITS - discounted</b>											
Best Estimate	£0.92	£1.78	£2.58	£3.32	£4.01	£4.65	£5.25	£5.79	£6.30	£6.76	£41.37
Low (i.e. best)	£0.67	£1.29	£1.88	£2.42	£2.92	£3.38	£3.82	£4.21	£4.58	£4.92	£30.09
High (i.e. worst)	£1.17	£2.27	£3.28	£4.23	£5.11	£5.92	£6.68	£7.37	£8.01	£8.60	£52.65
<b>NET PRESENT VALUE</b>											
NPV (best)	£3.26	£1.20	£2.02	£2.79	£3.50	£4.15	£4.76	£5.32	£5.84	£6.32	£32.65
NPV (low)	£3.68	£0.56	£1.17	£1.73	£2.26	£2.75	£3.20	£3.62	£4.00	£4.36	£19.97
NV (high)	£2.85	£1.85	£2.88	£3.84	£4.73	£5.56	£6.32	£7.03	£7.69	£8.29	£45.33

## Other considerations

37. Note that this change in legislation is very similar in the burdens imposed on charities to legislation introducing the CIO legal form. The RPC considered the CIO measure in 2011 and validated it as zero cost to business. The Impact Assessment for the introduction of the CIO measure can be found [here](#).

## Risks and assumptions

38. Our key assumption is on the expected level of take up of the new CIO conversion process. However, we believe we have a strong indication of the level of demand. Since the introduction of the CIO legal structure in 2012 it has proven to be a very popular choice of structure for new and existing unincorporated charities. Approximately 7,934 new CIOs have already been established in the four years since the legal form has been introduced. Of the new charity registrations accepted by the Charity Commission in the last financial year, nearly 53% were registered as

CIOs. It is expected that the option of conversion will be similarly popular for small charities that have opted for the company structure and for CICs.

39. Based on survey data as well as volumes of new CIO registrations, the Charity Commission estimates that between 20% (7,200) and 35% (12,600) of existing incorporated charities could decide to convert under the proposed CIO conversion legislation over ten years. It is also estimated that between 1% (120) and 5% (600) CICs will choose to convert to a CIO over ten years. However, as explained above, the costs and benefits of conversion to CICs are not monetised in this impact assessment as the process of conversion is more complex and numbers of CICs expected to convert small.
40. Conversion cost and savings estimates use figures from the impact assessment on measures introducing the CIO form, which are based on Charity Commission Admin Burdens Reduction data and published Companies House filing charges. Note that because the legislation is permissive, charities and CICs will only convert to the CIO form if this results in a net benefit for them – this means that it is unlikely that the policy would have a *negative* overall impact on the sector.

### **Rationale and evidence**

41. A public consultation sought feedback on draft enabling regulations on converting to Charitable Incorporated Organisations (CIO). The consultation was open from 1 April 2016 to 10 June 2016.
42. There was a very positive response to the proposals for a simplified CIO process, with 95% of respondents supporting the introduction of the draft regulations. There was also support for our assumptions on the take up of the conversion process, with 80% of respondents agreeing that there would be a demand for the draft regulations.
43. Respondents also agreed that changes to the regulations will reduce burden on charities, in particular smaller charities, as accounts could be produced on a “receipts and payments” basis reducing accountancy costs. Respondents also confirmed our belief that converting to a CIO would result in simpler reporting requirements, a single annual return and lower costs for registration and filing of information (e.g. the annual accounts). One respondent commented that the new conversion process would provide a ‘near seamless transition to the new legal form’. One respondent also highlighted the savings resulting from not having to wind up an existing company and re-open as a new charity to form a CIO.
44. Responses to the consultation also confirmed our position that post-conversion savings will be more significant (as a percentage of the charity’s income) for the smallest organisations.

### **Implementation plan**

45. Subject to Parliamentary approval of the necessary Secondary Legislation, the aim would be for a phased implementation of the conversion process starting in January 2018 depending on the type of charitable company or CIC converting.



## Notes

[1] Source: Charity Commission <https://www.gov.uk/government/organisations/charity-commission>, accessed 01/08/16

[2] Note that these charities are expected to fall mostly into the £10k-£500k income bracket as this is the target market for the CIO.

[3] See: <https://www.gov.uk/change-your-charity-structure>

[4] Occupational category as used in Administrative Burdens Measurement Exercise Technical Summary:  
<http://www.dti.gov.uk/files/file35995.pdf>

[5] These costs are based on measurements in the Charity Commission's Administrative Burdens Reduction (ABR) project, adjusted to remove Business as Usual (BaU) costs, and were also included in the IA on legislation introducing the CIO legal form (see ref 3)

[6] Charity Commission guidance including templates for a CIO constitution and other administrative templates are available online:  
<https://www.gov.uk/government/publications/setting-up-a-charity-model-governing-documents>

[7] See Validation Impact Assessment on establishing the Charitable Incorporated Organisation legal form:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/88451/CIO\\_Validation\\_Impact\\_Assessment\\_for\\_submission\\_RPC.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/88451/CIO_Validation_Impact_Assessment_for_submission_RPC.PDF)