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LEGAL STRUCTURES FOR SOCIAL ENTERPRISE AT A GLANCE

This is a short guide to the legal structures most commonly associated with charities and social enterprise. Other options are available, such as partnerships and limited liability partnerships, but these are beyond the scope of this guidance note. ***You should always consider seeking legal advice before your organisation adopts any form of legal structure – this note is intended as guidance only****. Where you are considering social investment, you should note that all social investors will require you to demonstrate the social impact of the investment they have made through a range of evidence and measurement techniques.*

Legal structure	Summary: most typical features	Ownership, governance and constitution	Is it a legal person distinct from those who own and/or run it?	Can its activities benefit those who own and/or run it?	Assets "locked" for community benefit?	Can it be a charity and get charitable status tax benefits?	Differences in the law as it applies in Scotland or Northern Ireland?	Social Investment: structural applications and general guidance
Unincorporated association	Informal; no general regulation of this structure; need to make own rules.	Nobody owns: governed according to own rules.	No – the members of the unincorporated association are personally liable. They have to enter into contracts and hold property in their personal names.	Depends on own rules.	Would need bespoke drafting to achieve this.	Yes if it meets the criteria for being a charity. For more information see: https://www.gov.uk/guidance/public-benefit-rules-for-charities	No specific differences.	Very unlikely to be able to attract social investment due to the lack of corporate structure.
Trust	A way of holding assets so as to separate legal ownership from economic interest.	Assets owned by trustees and managed in interests of beneficiaries on the terms of the trust.	No: trustees personally liable. They have to enter into contracts and hold property in their personal names.	Generally the trustees / directors cannot benefit as they only manage the trust on behalf of the beneficiaries. Trustees/ directors can benefit if permitted by the words in the trust or a court or Charity Commission permit.	Yes if trust is established for community benefit.	Yes if it meets the criteria for being a charity. For more information see: https://www.gov.uk/guidance/public-benefit-rules-for-charities	No, subject to differences between English and Scots trust law.	Very unlikely to be able to attract social investment due to the lack of corporate structure.

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Limited company (other than Community Interest Company) www.companieshouse.gov.uk	Most frequently adopted corporate legal structure – can be limited by shares or guarantee.	Directors manage business on behalf of shareholders (company limited by shares) or members (company limited by guarantee).	Yes - members' liability limited to amount paid on shares or by guarantee. Company enters into legal transactions in its own right and members are not liable for the company's debts.	Yes (but no dividends etc to members if it is a company limited by guarantee).	Would need bespoke drafting in articles (which could be amended by shareholders / members).	Yes if it meets the criteria for being a charity. For more information see: https://www.gov.uk/guidance/public-benefit-rules-for-charities	Scotland: no. Northern Ireland: separate but similar legislation.	Structure is not eligible for SITR, equity funding (if limited by shares) and debt funding (if limited by shares or guarantee). Social investors are likely to want to see that the company's Articles reflect that it is a social business.
Community interest company (CIC) www.cicregulator.gov.uk	Used specifically for social enterprises – can be structured by shares or guarantee. Key feature is the secure "asset lock" and requirement to fulfil community benefit test.	As for other limited companies, but subject to additional regulation by the CIC Regulator to ensure community benefit test is being met.	Yes - members' liability limited to amount paid on shares or by guarantee. Company enters into legal transactions in its own right and members are not liable for the company's debts.	Yes but the CIC must benefit the wider community as well. Can pay limited dividends to private investors if the CIC is limited by shares.	Yes, through standard provisions which all CICs must include in their constitutions.	No, but can become a charity if it ceases to be a CIC.	Scotland: no. Northern Ireland: legislation not yet in place.	Structure is eligible for SITR, equity funding (if limited by shares) and debt funding (if limited by shares or guarantee).
Co-operative * Industrial and Provident Societies are now Registered Societies: see [2014 legislation]()	For bona fide co-operatives that serve members' interests typically through trade opportunities.	Committee / board manage on behalf of members. One member, one vote (regardless of sizes of shareholdings).	Yes - members' liability limited to amount paid. Co-operative enters into legal transactions in its own right and members are not liable for the co-operative's debts.	Yes, but should do so mostly by members trading with society, using its facilities etc, not as a result of e.g. shareholdings.	Would need bespoke drafting in articles (which could be amended by members).	No – would have to be constituted as community benefit society.	Scotland: no. Northern Ireland: separate (but similar) legislation.	Can make use of withdrawable share capital issued to members. Also eligible for debt funding. Not eligible for SITR.

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Community Benefit Society (BenComm) *Industrial and Provident Societies are now Registered Societies see [2014 legislation]()	These entities are run for the benefit of the community, rather than just their own members.	Similar to Co-ops (i.e. managed by board or committee and one member, one vote). Some multi stakeholder variations. New legislation provides option of more secure form of asset lock.	Yes; members' liability limited to amount paid. BenComm enters into legal transactions in its own right and members are not liable for the society's debts.	Surpluses made by BenComm have to be used for benefit of community and cannot be distributed to members (unlike a Co-op).	Yes; can either adopt voluntary asset lock or statutory asset lock. If adopted statutory asset lock, there are tighter restrictions on how residual assets can be distributed on dissolution.	Yes as an exempt charity if it uses the voluntary asset lock and meets the criteria for being a charity: https://www.gov.uk/guidance/public-benefit-rules-for-charities	Scotland: no. Northern Ireland: legislation not yet in place.	Structure is eligible for SITR if it has used the statutory or voluntary asset lock; can make use of Community Shares, community bonds and debt funding.
Charitable Incorporated Organisation (CIO)	Corporate structure designed specifically for charities. Regulated by Charity Commission only	Similar to company but with different terminology (e.g. for "directors" read "charity trustees").	Yes; members have no liability and the CIO will enter into legal transactions in its own right.	Charity trustees can only benefit if constitution, court or Charity Commission permit.	Yes – all assets and surpluses have to be used for the CIO's charitable purposes.	Must meet the criteria for being a charity in order to be registered: https://www.gov.uk/guidance/public-benefit-rules-for-charities	Scotland: separate (but similar) legislation and Regulator. Northern Ireland: legislation not yet in place.	Typically funded through grants and unsecured loans. Unlikely to attract social investors as equity funding is not possible and there is no register of charges.
Special Purpose Vehicles (SPV)	Commonly used with social impact bonds. The SPV is a separate legal entity	Flexible and will depend on circumstances. Typically there will be a central partnership body	Yes, SPV is separate legal entity from key stakeholders i.e. delivery partners, Commissioner and investors.	Investors will place investment into SPV and Commissioner will contract with SPV for delivery of services. SPV will then contract with	Not usually as SPV is simply entity through which investment is made.	No	Scotland: no Northern Ireland: Not used yet	Typically used for social investment bonds. Note, social investment bonds will only work where there is a quantifiable saving to be made to the public

	(commonly company limited by shares) that sits as 'intermediary' entity between investors / Commissioner and delivery partners.	responsible for management of SPV.		individual delivery partners who will deliver front line services and achieve outcomes stipulated by Commissioner.				purse.