

Social Firms UK Annual Conference
Shaping The Future: Supportive Employment, Successful Businesses
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**WORKSHOP 4: Opening Up Opportunities For Private
Finance With The CIC**

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Background:

Abbie Rumbold by Bates, Wells & Braithwaite outlines some of the existing combined finance opportunities that the new Community Interest Company (CIC) presents to the social enterprise and Social Firm sectors. Delegates will work on key points for a factsheet for sharing within the sector. This workshop is designed for delegates with no or minimal knowledge of the CIC structure.

Notes:

The CIC is not for everyone, it is just the newest of several options for legal structures for social enterprises. When the idea for the CIC first arose, they were going to be called Public Interest Companies. A paper was prepared, but the idea was used for Alan Milburn's private finance initiatives in the NHS etc. There's no limit on the size of a CIC. The Community Benefit Society is one type of IPS. Public benefit corporations are an American form.

People wanted a legal structure that would always be there and profit would be 'locked in'. CICs have:

- a lock on assets
- directors can be paid
- it is possible to access Equity Finance.

Social entrepreneurs need some 'patient' capital. A halfway house was created between "business" and a "charity".

Company law is 150 years old and is polished every 10-20 years or so. There are lots of precedents of case law to establish the rules. So the CIC has piggy-backed onto company law to make a few changes to the existing law. Legislation was passed in 2004, and enacted in July 2005.

About The CIC

The most important aspect of the CIC is the asset lock. There can be no asset transfers unless at the full value market price, ie. Things cannot be given away, unless you want to transfer to another asset locked body e.g. charity i.e. specified in the mem & arts, or have the regulator decide. It is possible to pay dividends if the CIC is limited by shares.

There is no capital gain on winding up i.e. if you paid £100, you can only sell them for par. One of the difficulties is no capital gain, especially if share has increased. It's a hybrid equity.

Governance is the same as other shares in a 'normal' company. Is there a reason for a 'test' for the 'benefit of the community'? It is very difficult to assess what a community interest test is.

The DTI has side-stepped the issue. It might be a 'reasonable person', hence the regulator has to decide. Only one has failed in its application, which was a sado-masochistic group.

A CIC can:

- be international
- be a section of the community, but cannot be employees only
- not carry out political activities
- not be excluded

A CIC is not a charity. There is a clear distinction between a CIC and other legal forms that can have charitable status.

Key features of the Mem & Arts:

- state it is a CIC
- objects – how you'll fulfil the community interest test
- name
- other key features e.g. in articles, say there is an asset lock.

How to form a CIC

Normal Companies House forms. Local authority legal departments do not know about CICs. There is no issue with commercial lending to a CIC. CIC 36 is a Community Interest Statement (3 pages). Considers how you will use any surplus and how you differ from a commercial company. Applying is a very simple process.

Conversion from an existing company limited by guarantee.

Pass three special resolutions by 75% of members, not directors:

State it is a CIC

Change the name

Change the mem & arts and prescribed documents

The local authority may be satisfied when transferring e.g. property, as a CIC has an asset lock.

Religion is okay. The CIC Regulator, John Hanlon was appointed by the Secretary of State to provide credibility/maintain confidence – 'light touch'. There is an Appeal Officer and an annual CIC report. The CIC report should really be completed by the company not an accountant.

Charities vs. CIC

Be a CIC if you want to pay trustees or you are getting equity finance> you don't get tax breaks as a CIC
The Regulator has taken it upon himself to educate funders so they may allow funds to go to a CIC

Finance – Options For A CIC

Debt

A CIC can use assets as collateral. There's no cap on 'normal' interest. There is a cap on performance related interest 4% above the base rate fixed throughout the loan period.

Equity

Dual cap:

- maximum return of 5% of nominal value of share
- only 35% profit can be distributed

which affects capital growth.

E.g. Ealing Community Transport (ECT Group). Café Direct is funded by public share. Any combination of grant and loan and equity.

Partnership working – use CIC on joint ventures. Can offer some return.

Often motivated by finance and can be time limited by agreement of the shareholders.