**Notes to accompany the CIO (Association) model constitution**

**for new Triratna Buddhist Centres in the UK**

Mokshini, March 2017

**You need to register as a charity** with the Charity Commission if you set up as a charitable incorporated organisation (CIO) or its **annual income is more than £5,000**. If your charity isn’t a CIO and your income is under £5,000 you don’t have to register with the commission. But you can apply to HM Revenue and Customs to [recognise your organisation as charitable](https://www.gov.uk/charity-recognition-hmrc) so that you can claim back tax on things like Gift Aid donations.

As a charity, you get reduced business rates and receive tax relief. But, to qualify you need to show that all your purposes are charitable and that what you do benefit the public: as stated in the CC guidelines, “*charities are outward facing - they can’t be set up to benefit the narrow interests of a closed group*”. You also need to follow charity law, which includes registering with the Charity Commission.

Most of our Triratna Buddhist Centres are **unincorporated associations**.

This means for instance that

* the trustees are personally liable for what the charity does
* the charity won’t be able to enter into contracts or control some investments in its own name
* two or more trustees, a corporate custodian trustee or the charities’ land holding service will have to ‘hold’ any land on your charity’s behalf

However, recently (2015) the CC has developed a new type of charity, a **charitable incorporated organization, or CIO.**

These allow the charity to own property in its own name (and not in the name of a custodian trustee), employ staff and enter into contracts in its own name (and not in the name of the trustees), and it offers the trustees more protection: the trustees have no liability for its debts if the charity winds up.

So if you are intending to register as a new charity you are likely to want to become a CIO.

*(There are two other types of charity structure:*

* *charitable company limited by guarantee*
* *trust*

*For information on these* [*look here*](https://www.gov.uk/guidance/how-to-set-up-a-charity-cc21a) *on the Charity Commission website)*

**There are two types of CIO:**

**Foundation Model**: this is where the membership of the charity is limited to and the same as the trustees. The charity is run solely by the trustees, they make all the key decisions, and you haven’t got any other membership that takes part in the decision-making process.

**Association Model**: This has a wider membership than just the trustees. The charity has members who take part in the decision-making process (in fact for some decisions, like amending the constitutions, the members must make these); the members will usually appoint the trustees, and the members - or some of them - will be involved in the work of the CIO. You must:

* have a constitution as your governing document
* register your CIO with the commission for it to legally come into existence
* keep a register of its members and trustees
* send its accounts and annual return to the commission each year, regardless of your income

The first type of CIO (Foundation) might seem, at first sight, simpler and hence preferable. However, experience has shown that a small group of trustees can become quite isolated and polarised.

The existence of a wider membership, with clear criteria for those members, gives a way of giving the wider order the responsibility for the centre, even if trustees exercise it on their behalf; and keeping trustees accountable. The recent paper ‘Criteria for a Triratna Buddhist Centre’ points to a standard model for Triratna Centres that includes a wider membership; the recommendation is very much that a new Triratna Centre will opt for the **Association CIO model**.

Finally, there are a few **areas where Triratna Charities tend to differ** from other charitable institutions and it is worth you being aware off this: it is also in these two areas where there are changes in the wording between our suggested Triratna CIO and the model Charity Commission CIO.

1. Employing/financially supporting trustees: In most charities, trustees are usually unpaid volunteers. Trustees can only be paid where it is *explicitly* authorized (clearly stated in their constitution and this has been authorized by the CC). As trustees are very often key figures at Triratna Buddhist Centre and therefore frequently in receipt of financial support (whether this takes the form of a formal employment contract or a more general payment of money for example to attend retreats) it is **essential** this permission is included in the constitution.
2. This has as an important corollary that it is essential that your charity demonstrates in its minutes of the meeting that you are managing any conflict of interest.

**Conflict of interest occurs** when an item is discussed in the trustees meeting that involves allowing a financial benefit to either of the trustees themselves or a ‘connected party’ (partner or family member).

**How you demonstrate that** you are effectively managing the conflict of interest:

If there is an item of business which may allow a Council member a direct financial benefit then the Council Member in question must:

1. declare an interest before discussion begins on the matter;
2. withdraw from that part of the meeting unless expressly invited to remain in order to provide information;
3. not be counted in the quorum for that part of the meeting; and
4. withdraw during the vote and have no vote on the matter.

Those Council Members who do not stand to receive the proposed benefit must be satisfied that it is in the best interests of the Association to contract with or employ that Council Member rather than with someone who is not a Council Member and they must record the reason for their decision in the minutes.

1. The way we make decisions: in general charities are assumed to make all decisions by simple majority vote. In our Triratna constitution however we state that we strive to make all decisions by consensus. It is worth trustees spending time to clarify and agree what exactly working ‘consentually’ means and how you are going to put it into practice; to prevent misunderstandings and disharmony among the trustees, and also to prevent over lengthy and dispiriting decision-making process and ensure effective meetings and. There is some guidance with suggestions for working consensually that might be a helpful start for trustees to explore this available from the Development Team.

If you are an existing Triratna Buddhist centre and **wish to convert to a CIO structure**, the Charity Commission recommends you choose the CIO Association model if your original unincorporated charity:

* has a constitution as its governing document
* has a wider membership which votes on important decisions, such as electing trustees or committee members

‘Converting to a CIO structure’ means you have to set up a new charity (CIO), transfer your assets & liabilities, and close the old charity: there is [guidance on this](https://www.gov.uk/guidance/change-your-charity-structure) on the Charity Commission website.

The Charity Commission points out that you may want to convert from an unincorporated charity (as most Buddhist Centres currently are) if you want to

* employ people, or
* you want to register the title to your charity’s land or property in its own name rather than in a trustee’s name; or
* give the trustees more protection as in an unincorporated charity the trustees are personally liable for any debt.

**Completing the CIO Association model form:**

The suggested CIO Association model application form for new Triratna charities in the UK follows, in the main, the Charity Commission Association CIO model.

***The objects*** (clause 2) are taken from the ‘old’ Triratna model constitution and it is recommended you keep to this wording. If all Triratna Buddhist Centres have the same wording in their constitution it is much easier to help should there be a difficulty at some point, whether this is internally i.e. within the Buddhist Centre, or in response to a query from the Charity Commission.

***The suggested CIO (Association) constitution was agreed for the Mid Essex Buddhist Centre on 27 March 2017, and is registered with the charity number*** 1172278

*Please read document 2, the Association CIO model with* ***notes*** *- these notes aim to explain*

a) any changes in this version of the CIO document to that of the model charity commission document,

b) explain the source of any additions,

c) point out where clauses have been taken from the 2012 Triratna constitution,

c) has some suggestions for best practice OR where it says it says “you *must”*, points out where a clause is a legal requirement.

References to “*2012 (or ‘old’) Triratna ‘model’ constitution”:* this refers to the updated constitution from 2012 which most Triratna Buddhist Centres in the UK adopted at or around that time. This is a constitution for an unincorporated charity: These differ from CIOs (which are a recent form of charity structure which was not available in 2012) in that the trustees are personally liable for any debt incurred regarding the charity.

References to ‘***CC CIO model*’** refer to the **C**harity **C**ommission’s CIO (Association) model constitution; available on their website

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