Difference between a CIC and a Charity

This document lists some of the main differences between a CIC and a Charity. The information contained here comes from this website –

https://makeanimpactcic.co.uk/2018/02/whats-the-difference-between-a-cic-and-a-charity/

It is advisable to check with professional legal advice before making any organisational changes.

Trading income versus Grants and funding

- A CIC is a way of doing business that benefits more than the shareholders or owners, involving trading a product or service. This is the first key difference between a CIC and a charity.
- A CIC is usually not dependent on donations and fundraising because it will have a mix of income including contracts, trading income and grants.
- A charity is more likely to be dependent on grants, donations and fundraising for a larger proportion of its income. This means charities tend to deliver time-limited projects that are funded by trusts and foundations, whereas CICs will have products and services they trade continuously regardless of the funding or grants they receive.
- This separation is not fixed - many CICs are entirely dependent on grants and deliver projects (though this means they lack sustainability as they have no regular income of their own), and there are many charities that are largely dependent on contracts for income rather than fundraising and grants.
- There are 3 situations when CICs should look at having grants –
    - When the grant is an exact fit with what you do,
    - When you want to test, trial or innovate with a new or existing product or service idea (such as when you are starting your CIC), or
    - When you want to develop additional areas of your work to potentially turn in to products or services in the future.

  In these circumstances receiving the grant or funding is likely to support you to develop a more sustainable social enterprise in the future as you will have additional products or services to trade, rather than a less sustainable social enterprise with additional projects that need more funding to continue or have to stop being delivered if you can't find further funding.

Board, Staff and Volunteers

One crucial difference between a CIC and a charity is that

- CICs are able to employ the Directors and pay them a salary whereas
- It is less acceptable for Directors (also called Trustees) to be paid for work they do for a charity.

The Charity Commission does allow Trustees to be paid for doing work for the charity, though Trustees are rarely, if ever, employees or PAYE. Then Board of Trustees stays independent of the employees.

There are limits on the number of Trustees that can be paid for work they do for the charity outside their role as a Trustee. Trustees are expected to do their role in a voluntary capacity, only being reimbursed any expenses they incur such as travel costs.

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With a CIC it is expected that the Board of directors will usually be the same people as those working/employed by it. This means the founder of the CIC is able to maintain control of the CIC by being on the board and also to actively work in the CIC. In a charity it is often the case that the founder will step down from the board to be paid to work in the charity, and lose any control and involvement in decision making, or alternatively remain on the board and be unremunerated for the work they do in the charity.

Community benefit versus Charitable Objects

A CIC must specify a community it will benefit. This can be a group of people/things, a geographical area, people with certain characteristics such as young people, female led businesses in the UK, areas of deforestation around the world etc.

Depending on the community benefit specified by the CIC it may also be charitable but it does not have to be. The CIC Regulator will generally accept any community benefit and these are not defined in law.

For a charity there are a specified number of objects (purposes) that are considered charitable by law and to set up a charity you must choose one or more of these or a purpose that is very similar to these otherwise your application will be rejected. To be charitable the objects must have a public benefit which is much more specific and defined in law compared to the community benefit a CIC is required to fulfil.

A charity must have ‘charitable purposes’ that help the public (known as being ‘for public benefit’). Charitable purposes include things that contribute to:

- relieving poverty
- education
- religion
- health
- saving lives
- citizenship or community development
- the arts
- amateur sport
- human rights
- religious or racial harmony
- the protection of the environment
- animal welfare
- the efficiency of the armed forces, police, fire or ambulance services

Not for profit versus making a profit

A CIC is expected to make a profit/surplus whereas a charity is considered as a not for profit which should not profit from the work it carries out. CICs are expected to reinvest their surpluses to do more of their work but can also pay a proportion of this out to the owners or investors. With a charity surpluses (also called reserves) must not be excessive. This usually means that a charity must have a policy for how much surplus it retains in case its income falls in the future. Generally charities hold surpluses of 6-12 months operational costs so they can continue to operate for that time period even if no new income is received. Any surpluses above this level have to have specific uses, such as being held and designated for a new building.

Minimum trustees/directors

A CIC can be set up with just one director whereas the Charity Commission expects charities to have a minimum of three trustees and often five. If you wish to apply for funding trusts and foundations they usually specify that there are a minimum of three unrelated directors or trustees regardless of the legal structure.

Different types of charity and Community Interest Companies

There are three main types of charity:

1. **Unincorporated charities** – which have a constitution that details what the charity does and how it operates. This is usually for smaller charities because the trustees are personally liable if anything goes wrong.
2. **Incorporated charities (charitable companies)** – this is when the charity is set up as a company with Companies House (usually as a limited by guarantee company although there are a very small number of limited by share charitable companies) and also registered with Charity Commission as a charity.
3. **Charitable Incorporated Organisations (CIOs)** – are similar to a charitable company except they are only registered with the Charity Commission and not with Companies House as well. This reduces the dual registration and reporting that you have with a charitable company. This type of charity has to be registered with the Charity Commission regardless of its income whereas the other two types must only register when their income is over £5,000. Below that level they can register with HMRC as a charity to gain Gift Aid repayments.

There are two main types of CICs:

1. **Limited by share CICs** – where there are shareholders and directors. Directors can receive up to 35% of the surpluses as dividends. Charities cannot pay out surpluses to the trustees.
2. **Limited by guarantee** – and thereby does not have shares or shareholders, and cannot pay dividends. It just has directors. Both types of CICs have caps on the interest they can pay on performance related loans.

With these two types of CICs there are then several model articles which have slight variations such as –

- who can receive dividends (individuals, organisations or both),
- if the directors are also the members or
- if there is a large membership like a co-op would have etc.

Further details of the model articles can be found at Community Interest Companies Constitutions.

Governance and risk management

There are strict guidelines on governance of charities and risk management which the Charity Commission expects charities to comply with. CICs must manage their risks and have good governance in place as well, but they are generally a more flexible legal structure that enables risks to be taken and for the social enterprise to innovate more quickly as the directors are usually involved in the day to day operations as well as making decisions on the Boards. With charities because there is a separation between the board and the employees decision making is usually much slower.

Reporting requirements

Charities are required to produce financial statements in charity format. This includes reporting on their public benefit and achievement of their mission, as well as any payments made to trustees or individuals related to them. Charities are regulated by Charity Commission and if they are also set up as companies they are also regulated by Companies House.

CICs produce financial statements in a simpler company format and have to complete a short CIC report stating –

- how they have benefitted the community they defined,
- how they have consulted with them and
- the amount of remuneration paid to the directors.

CICs are regulated by Companies House and this includes the CIC Regulator who checks compliance with the CIC regulations. CICs also confirm the details Companies House holds are correct annually via a confirmation statement.

Tax

CICs are not exempt from corporation tax and pay tax on their surpluses. Charities do not pay corporation tax.

Charities are eligible for rate relief of 80% automatically and the additional 20% at the discretion of the local authority. Whereas CICs are not automatically entitled to this and it is up to the local authority whether they get any rate relief or not.

Charities can claim gift aid on donations they receive which increases the value of the donation by 25%. CICs don’t receive this, although through some crowdfunding and donation sites CICs can get gift aid.

Asset lock and conversion of legal structure

CICs have an asset lock in place which means if the CIC closes, any remaining assets must be transferred to another CIC or charity. Charities have a similar thing in place by virtue of being a charity in law, which means any remaining assets must transfer in a similar way. CICs can only convert to a charity and vice versa.