

Council's solicitor comments on community library legal structure.

A CIC is an ordinary company but with special attributes: principally an asset lock and community objects. The memo and articles of association are prescribed. Applications are made to Companies House and there is a special regulator called The Regulator. The application process is straightforward, although it is important to get the application correct. The usual form is a company limited by guarantee. They are very popular and over 300 new CICs are registered every month. They are used for wide variety of community purpose especially where the objects would not meet the requirements of charity law. The VAT position is the same for any company. From a NNDR point of view CICs could benefit from small business relief. The regulation is light touch.

A CIO is a corporate charity. The organisation must have both wholly charitable objects and exhibit public benefit. The Charity Commission has prescribed model constitutions and applications are made on-line. The application process is onerous and the obligations on both the organisation and the trustees are onerous. The Charity Commission is not a light touch regulator and does not register new charities easily. There are potential VAT problems but charities can apply for charitable rate relief. A charity cannot trade and there are specific and restrictive rules about the holding, dealing with and disposing of land and assets. It is likely that running a public library service would satisfy both the charitable objects criterion and the public benefit test. A charity would normally be expected to have a long life.

So far as running a public library service is concerned, I should have thought that a CIC would be more flexible in terms of creation and running than a charity.