

Title: Charitable Incorporated Organisation Lead department or agency: Office for Civil Society, Cabinet Office Other departments or agencies: Charity Commission for England and Wales	Impact Assessment (IA)
	IA No: CO1008
	Date: 01/12/2010
	Stage: Enactment
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

There is no structure for legal incorporation designed specifically for charities. Incorporation is attractive to charities mainly for two reasons. Incorporation gives a charity its own legal personality, which for example means the charity itself rather than the charity's trustees can enter into contracts. Secondly, incorporation offers the trustees and members of the charity personal protection from the financial liabilities of the charity. There is anecdotal evidence that concerns about personal liability are making it harder for unincorporated charities to attract new trustees. Charities can incorporate as a company limited by guarantee, but this results in dual registration and regulation under both charity law and company law.

What are the policy objectives and the intended effects?

A new legal structure with the benefits of incorporation designed specifically and only for charities, and solely regulated under charity law. The CIO will add to the range of structures already available for establishing charities in England and Wales.

The CIO will contribute to the Government's priority for Civil Society of making it easier to set up and run a charity, voluntary group or social enterprise.

It is expected to be a very popular legal structure for charities.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

Option 1: Implement the legislation and supporting Regulations (the preferred option)

This option involves the introduction of Regulations to complete the necessary legal framework for CIOs. The approach has been to produce a workable framework for the operation of this legal structure created specifically for charities with the aim of it being as economic a system as possible in terms of the requirements introduced.

Option 2: Do nothing – do not commence Part 8 and Schedule 7 of the 2003 Act (as amended by the 2006 Act). This option would not deliver a framework to enable charities to obtain the benefits of incorporation without having to undergo dual registration and regulation with both the Charity Commission and Companies House, and comply with both company law and charity law.

Option 3: Implement the legislation with partial Regulations. Without full underpinning Regulations, there would not be a comprehensive framework for CIOs resulting in inconsistency and lack of confidence.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?

It will be reviewed from 2011 as part of the overall review of the Charities Act 2006, and additionally three years after commencement.

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

SELECT SIGNATORY Sign-off For enactment stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis and Evidence

Policy Option 1

Description:

Complete the legal framework for the CIO

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	Optional
High	0	0	Optional
Best Estimate	Negligible	Negligible	Negligible

Description and scale of key monetised costs by 'main affected groups'

There are no direct costs involved in setting up a CIO. The CIO is a permissive measure – only those charities that opt for the CIO form will be affected by these regulations, both in applying to register a CIO or convert into a CIO, and in the day to day running of the CIO. The costs of setting up and running a CIO are considered to be less than setting up and running a charity as a company limited by guarantee.

Other key non-monetised costs by 'main affected groups'

There will be indirect costs in setting up or converting to a CIO, the level of which will vary depending on the particular circumstances. For example the promoters of the charity will need to invest time in preparing the application for registration or conversion. All CIOs will be required to electronically submit their annual accounts and annual reports to the Charity Commission.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional
High	Optional		Optional
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

Monetised benefits of the CIO are not readily quantifiable.

Other key non-monetised benefits by 'main affected groups'

It is not straightforward to place a value on the benefits of incorporation – e.g. legal personality for the charity, and protection for the trustees and members from the financial liabilities of the charity. Unlike charities in company form, CIOs will not have dual regulation of both Companies House and the Charity Commission – CIOs will be solely regulated by the Charity Commission under charity law. And unlike Companies House the Commission does not charge for registration and annual filing.

Key assumptions/sensitivities/risks	Discount rate (%)	
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Impact on admin burden (AB) (£m):	Impact on policy cost savings (£m):	In scope
New AB:	Policy cost savings:	Yes/No
AB savings:	Net:	

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		England and Wales			
From what date will the policy be implemented?		01/05/2011			
Which organisation(s) will enforce the policy?		Charity Commission			
What is the annual change in enforcement cost (£m)?		N/A			
Does enforcement comply with Hampton principles?		Yes			
Does implementation go beyond minimum EU requirements?		N/A			
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A		Non-traded: N/A	
Does the proposal have an impact on competition?		No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs:		Benefits:	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes	Yes	Yes	Yes	Yes

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	<u>Charities Act 2006</u>
2	Regulatory Impact Assessment of Charities Act 2006
3	The Charitable Incorporated Organisations (General) Regulations 2011
4	The draft Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2011
5	The draft Charity Tribunal Amendment Order 2011
6	Charity Commission draft CIO model constitutions
7	Consultation package on the Charitable Incorporated Organisation (CIO) – the new corporate form for charities (September 2008)
8	Summary of consultation responses and next steps

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Annual recurring cost	0	0	0	0	0	0	0	0	0	0
Total annual costs	0	0	0	0	0	0	0	0	0	0
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	0	0	0	0	0	0	0	0	0	0
Total annual benefits	0	0	0	0	0	0	0	0	0	0

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Monetised costs and benefits are not considered to be material. Significant non-monetised benefits.

Evidence Base (for summary sheets)

Background

- 1) The Charitable Incorporated Organisation (“CIO”) structure is designed to offer a practical alternative for charities seeking the protection and practicality of incorporation without having to meet the dual registration and reporting requirements of the Charity Commission and Companies House. Currently, interaction between company law and charity law is complex, and can be time consuming and onerous for charities opting for this form of incorporation.
- 2) The Charities Act 2006 (“the 2006 Act”) introduces the CIO as a new corporate structure which will be available solely to charities. The 2006 Act adds provisions to the Charities Act 1993 (“the 1993 Act”) setting out the basic structure and arrangements for forming a CIO. These Regulations complete the detailed legal framework for the CIO. CIOs will be registered with and regulated solely by the Charity Commission (“the Commission”).
- 3) The capacity and powers of an incorporated body are clear in a way which is not always the case with an unincorporated body. Whilst the members and managers of an incorporated body are usually safeguarded personally from the financial liabilities which it incurs, this is not so for persons acting on behalf of an unincorporated body.
- 4) The purpose of the Regulations and model constitutions is to provide a workable framework that is attractive to those charities that wish to avail themselves of the benefits that incorporation can provide without making it unnecessarily more demanding than the requirements of existing structures available to them, thereby increasing their efficiency and effectiveness whilst maintaining public trust and confidence in them.
- 5) The practical detail of the legal framework is necessarily complex and technical in places although the aim is to achieve administrative ease for charities that opt for the CIO (whilst maintaining sufficient accountability to encourage public trust and the confidence of those who will be doing business with CIOs). It is important to balance the attractiveness of this option of structure against the fact that CIOs will provide benefit and protection for their members and trustees from the liabilities of the CIO and therefore there are some requirements additional to those for unincorporated charities.
- 6) The model constitutions seek to contain everything needed for the efficient running of a CIO and include both legal requirements and best practice. The Commission will publish guidance on the setting up, running, and winding up of a CIO.
- 7) Setting up a charity as a CIO should have the following advantages over the formation of the charity as a company –
 - (a) Single registration requirement. A charitable company has to register with the registrar of companies *and* with the Commission. The CIO will only need to register with the Commission.
 - (b) Simpler accounts preparation requirements for small to medium-sized charities. CIOs with an annual income below £250,000 will be able to opt to produce receipts and payments accounts. All companies must produce accruals accounts which are more detailed and complex than receipts and payments accounts.
 - (c) Simpler reporting requirements. CIOs will only prepare an annual report under charity law. Charitable companies have to prepare a directors’ report under company law as well.
 - (d) A single annual return. Charitable companies have to prepare an annual return under company law and (if they have annual income over £25,000) a separate annual return under charity law;
 - (e) Simpler filing requirements. CIOs will only have to electronically send accounts/reports/returns to the Commission. Charitable companies have to send them both to the Commission and to the Registrar of Companies;
 - (f) Simpler requirements relating to the reporting of constitutional and governance changes. CIOs will be subject to a less extensive range of reporting requirements

- than charitable companies, and will only have to report to the Commission, rather than both to the Commission and to the Registrar of Companies;
- (g) Lower costs. The Commission, unlike the Registrar of Companies, does not make any charges for registration, and filing of information;
 - (h) Simpler constitutional forms. Because the CIO will not be sharing a framework with commercial bodies, statutory default powers are provided covering ground which might otherwise need explicit constitutional provision;
 - (i) Greater constitutional flexibility. Whilst the legal framework for CIOs contains some governance provisions which cannot be modified, in other respects CIOs can decide their own procedures. The provisions in the General Regulations have been formulated with charities in mind. They are not the same as the provisions in company law, which have been formulated primarily for commercial companies;
 - (j) More straightforward arrangements when charities merge or change structure. The 2006 Act contains a number of provisions designed to facilitate merger and restructuring of CIOs which are not available to charitable companies (or, for that matter, to other forms of charity);
 - (k) An enforcement regime which does not penalise the charity for the misconduct of its directors. A commercial company, which ultimately operates for the financial benefit of shareholders, can be penalised for the misconduct of directors (which, in effect penalises the shareholders themselves). This is not the approach for a CIO, which as a charity does not operate for the benefit of its members;
 - (l) A clear set of duties for charity trustees and members which specifically reflect the charitable nature of the CIO.
- 8) The CIO option will not be suitable for all charities and those wishing to set up and operate such a charity will have to think carefully about what structure would actually best suit the needs of their organisation.
- 9) Whilst the CIO has some clear benefits over other corporate forms, it will remain simpler to set up and run a charity as an unincorporated association. Charity trustees of CIOs will have the same duties and responsibilities as trustees of unincorporated associations, but there will be a number of additional requirements for CIOs:
- (a) A CIO must keep registers of its charity trustees and members and make certain information from these registers available for public inspection;
 - (b) All CIOs will have to submit accounts and annual returns to the Commission, regardless of their income;
 - (c) The form of constitution for CIOs will be less flexible than for unincorporated associations; and,
 - (d) There are criminal offences which could apply to the charity trustees of CIOs if they fail to meet certain requirements set out in the legislation.
- 10) The CIO will not necessarily be an attractive option for larger charities that borrow against charges over their property. The original proposal was for the Charity Commission to maintain and make publicly available information about charges over CIO property. Companies House operates a web-based searchable register of charges over companies' property. This enables lenders and others proposing to do business with companies the ability to quickly and easily ascertain the financial risks of doing so. However following more analysis, the costs to the Charity Commission of establishing and operating an electronic searchable register of charges similar to that operated by Companies House were considered to be unrealistic. An alternative system of notifications was considered, but this was considered equally unaffordable, and potentially more bureaucratic. The regulations are therefore silent on managing information about charges over CIO property. In effect this means that CIOs would register charges over land with the Land Registry, but that other types of secured charges would not be recorded (other than with the CIO itself and the lender). In practice this means that the CIO may not be as attractive as the company model for larger charities, or those that frequently secure charges over the charity's property.

11)

12).

Background – General Regulations

- 13) The 2006 Act inserts a new section 34 and Schedule 7 (new Part 8A of and Schedule 5B) into the 1993 Act which creates new provisions for the creation of Charitable Incorporated Organisations and their subsequent undertakings.
- 14) The Regulations combine relevant aspects of company law and charity law, providing the safeguards needed for those wishing to do conduct business with CIOs e.g. for financial transactions without making the process unnecessarily burdensome and more demanding than the requirements of existing charity structures.
- 15) The General Regulations contain provisions governing:
 - The application to be constituted and registered as a CIO;
 - Matters to be covered in the CIO's constitution, provision for entrenchment, for amendment to constitutions, and provision to disapply the duty of care that applies to charity trustees;
 - the appointment of charity trustees, including a minimum age requirement of 16 years, and those who are disqualified under the Companies Directors Disqualification Act 1986;
 - the appointment of the CIO's members;
 - use of a CIO's name;
 - preparation of accounts and reports;
 - the transfer of one CIO's undertakings to another CIO;
 - how a CIO should operate in terms of its powers, the duties of members and charity trustees, procedural matters, and record keeping;
 - requirements relating to electronic communications;

Major changes since the consultation version of the General Regulations

- 16) No provision is made regarding the management and public availability of information about charges over CIO property.
- 17) The draft provisions relating to conversion of charitable companies limited by guarantee, and community interest companies, have been removed. A separate set of regulations relating to corporate conversions into CIOs will be made in due course.
- 18) New provision has been introduced to facilitate the transfer of permanent endowment to a new CIO that is being formed to accept the assets of an unincorporated charity (which holds permanent endowment). The CIO cannot hold the permanent endowment as corporate property, but instead becomes the trustee of the permanent endowment which is held on the same (or as similar as possible) trusts as before. The provision includes a uniting direction which enables the accounts and reports of the CIO to include the permanent endowment (rather than requiring separate accounting and reporting).
- 19)

Background – Dissolution Regulations

- 20) These Regulations combine the relevant provisions of insolvency legislation with charity law in order to make provision for the insolvency, winding up, dissolution and restoration to the register of CIOs. The full range of procedures available to companies under the Insolvency Act 1986 (the 1986 Act) and subordinate legislation, with appropriate technical modifications, will be available to CIOs.
- 21) The 2006 Act inserts a new section 69N into the Charities Act 1993 to enable the Minister by way of regulations, to make provision for the insolvency, winding up, dissolution and restoration to the register of CIOs. The draft Insolvency Regulations make provision dealing with these matters. The 1986 Act, and relevant subordinate legislation made under that Act, will apply, with appropriate technical modifications, to a CIO as it applies to a company registered in England and Wales.
- 22) This means that the full range of procedures under the 1986 Act will be available to CIOs. That is:
- liquidation (members' voluntary winding up, creditors' voluntary winding up and winding up by the court);
 - administrative receivership;
 - administration; and
 - voluntary arrangements.
- 23) Section 63(1), (2) and (5) of the 1993 Act will apply to a CIO as it applies to any other charity which may be wound up under the 1993 Act. This means that it will be possible for the Attorney General, and the Commission with the Attorney General's consent, to present a petition for the winding up of a CIO under the 1986 Act. A CIO may also apply to the Commission for its removal from the register of charities and thus its dissolution without the need to make use of the procedures in the 1986 Act although in certain specified circumstances an application may not be made by the charity trustees and any person who makes an application for dissolution in contravention of these provisions commits a criminal offence.
- 24) All property vested in or held on trust for the CIO immediately prior to its dissolution will transfer to the Official Custodian or, where an automatic transfer is not possible, become subject to the right for the Official Custodian to call for its transfer. Property held on trust by the CIO for another person will be dealt with as any other property held on trust where a trustee is removed. Section 20 of the 1993 Act will apply to any such order to be made by the Commission.
- 25) Whilst the full range of insolvency and dissolution procedures will be available to CIOs, we anticipate that in most cases, CIOs will be wound up by their members using the voluntary procedure, or by the Charity Commission where a CIO has ceased to operate and the Commission is unable to contact it or its trustees.
- 26) The Insolvency Regulations apply specified provisions of the Company Directors Disqualification Act 1986 (the CDDA), with appropriate technical modifications, to the charity trustees of CIOs. The effect of applying these provisions is:
- to require the court to make a disqualification order to disqualify an unfit charity trustee of an insolvent CIO from being:
 - (i) a charity trustee of a CIO, receiver of a CIO's property; or being involved in any way with the promotion, formation or management of a CIO without the leave of the court; or
 - (ii) an insolvency practitioner.
 - to enable the Commission to accept a disqualification undertaking from an unfit trustee of an insolvent company;
 - to enable the Commission, or the official receiver, to make an application for a disqualification order against an unfit director of an insolvent CIO;
 - to enable applications for leave to act as a charity trustee etc to be made by a person subject to a disqualification order or disqualification undertaking.

Background - Charity Tribunal Amendment Order

- 27) This Order makes several amendments to Schedule 1C to the 1993 Act in order to give a first right of appeal to the First Tier Tribunal (Charity) against a number of decisions which could be made by the Charity Commission under the General Regulations and the Dissolution Regulations.
- 28) Under the Order it would be possible:
- for a CIO, its charity trustees, any creditor of the CIO or other interested party to appeal against a decision of the Commission to grant or not to grant its application for dissolution made under the Insolvency Regulations;
 - for a CIO, its charity trustees, any creditor of the CIO or other interested party to appeal against a decision of the Commission to dissolve that CIO of its own motion;
 - for a CIO, its charity trustees, any creditor of the CIO or other interested party to appeal against a decision of the Commission to dissolve that CIO if it is being wound up by the court;
 - where a CIO has been dissolved, for the persons who were, or claim to have been, the charity trustee's of the CIO immediately before its dissolution or any other interested person to appeal against an order made by the Commission under **regulation xx of the Dissolution Regulations**; and
 - where a CIO has been dissolved and the Commission has decided to restore or not to restore the name of that CIO to the register, the persons who were, or claim to have been, the charity trustees of the CIO immediately prior to its dissolution or any other interested party may appeal against that decision.
- 29) The First Tier Tribunal (Charity) will have the power to quash a decision made by the Commission and remit the matter to it for reconsideration and in relevant cases it will also have the power to require the Commission grant an application or make a decision.

Background - Charity Commission model constitutions

- 30) The 2006 Act provides at section 69B(5) of new Part 8A of the 1993 Act that a CIOs constitution must be in the form specified in Regulations made by the Commission, or as near to the form as the circumstances admit.
- 31) The Commission proposes to prescribe two model forms of constitution, one for the “association” type CIO, where the charity has voting members who are distinct from the charity trustees, and one for the “foundation” type CIO, where the charity trustees themselves are the only voting members of the CIO and there is no separate body of voting members.
- 32) The model constitutions are based on the Commission’s existing model governing documents for other charity structures and contain provisions which are required to be included by the 2006 Act and draft General Regulations together with best practice to provide what the Commission considers good governance in the relevant types of charity.
- 33) By following these models, adapted to suit the needs of a particular CIO, the risk of ambiguity in constitutions and the likelihood of internal disputes in the administration of CIOs should be reduced. It should also mean faster processing of applications for registration by the Commission.

[Charity Commission to add more detail to this section].

Implementation proposals

34) *[to be completed]*.

35) .

36) .

37) .

Equalities Impact Screening

38) *[to be completed]*.

39) .

Cost Calculations

- 40) As the CIO is a permissive measure these Regulations place no direct cost burdens on charities.
- 41) However there are likely to be costs for those opting to convert into or set up a CIO, and there will be costs associated with operating a CIO. It is very difficult to estimate these costs with accuracy, as they will vary considerably according to the particular circumstances of the charity (or proposed charity) concerned. Of course it will be for the promoters of a new charity, or the trustees of an existing charity, to weigh up the costs and benefits of becoming a CIO, according to the particular circumstances of their organisation.
- 42) We can say that the costs of running a CIO will generally be more than the costs of running an unincorporated charity (a trust or unincorporated association), but should be less than the costs of running a charitable company (which offers the closest comparison as the most widespread incorporated form for charities currently available).
- 43) It is also extremely difficult to place a value on the benefits that incorporation brings to charities. Whilst there are obvious practical benefits flowing from the charity having its own legal personality, the benefit of personal protection for the trustees and members from the charity's financial liabilities is almost impossible to quantify. There is anecdotal evidence that some charity trustees perceive this as a significant benefit and one which could weigh heavily in trustees' decisions about whether or not to incorporate as a CIO. However there is no actual evidence to corroborate this, or to support the contention that the benefits of personal protection from the charity's financial liabilities is of any major value.
- 44) An important factor in determining the costs of running a CIO compared to a company charity is the accounting and reporting requirements that will apply to CIOs. There are two particular accounting and reporting issues which will have a bearing on the costs of running a CIO:
- CIOs will follow the Charities Act 1993 requirements for non-company charities in terms of the preparation and scrutiny of their accounts. That means that CIOs with an annual income below £250,000 will be able to opt to prepare much simpler (and cheaper) receipts and payments accounts, rather than the more complex (and expensive) accruals accounts. All company charities regardless of their size must prepare accruals accounts under company law.
 - Unlike other charities, **all** CIOs will be required to submit their annual accounts, annual reports and an annual return to the Charity Commission. For other charities only those with an income of over £25,000 must do so.
- 45) The costs to the Charity Commission associated with registering and regulating CIOs will be borne out of its Spending Review settlement. The Commission's Spending Review Settlement results in a 33% real terms reduction in its funding by 2014/15. The Office for Civil Society has worked closely with the Charity Commission to streamline the requirements for the Commission in relation to registering and communicating with CIOs. We anticipate that communication will be electronic in all but exceptional circumstances. In addition, it will be necessary to phase in the availability of the CIO model to existing charities over time, to enable the Commission to manage anticipated demand (further details of the proposed implementation timetable are in **paragraph X** below).
- 46) The current standard cost of registration with Companies House is £15 or £20 depending on whether the request is made electronically or on paper, (with same day incorporation costing £30 or £50 depending on the method of application). Various other charges apply to change of name and re-registration requests. The processing fee for annual returns is £15 for electronic filing and £30 for paper submissions.
- 47) The cost of registration with the Charity Commission is nil and there is no charge for filing annual returns and accounts, or constitutional changes or other documents under the 1993 Act.

[Can CC check these figures & update if necessary please]

- 48) There are currently around 161,000 main charities on the Register of Charities. Of these, around 80% are unincorporated, and 20% incorporated (almost exclusively) as a company limited by guarantee.
- 49) The Commission registers about 5,500 new charities each year. Of these we might expect 1,375 (25%) may opt to register as a CIO. However, these are registrations that the Commission would be expecting to make in the normal course of events.
- 50) A survey prepared for the Commission in May 2009 indicated that 12% of all charities asked were likely to want to transfer to the new CIO model. This likelihood increased to 31% for charities already established as a company limited by guarantee. However these rates were based on a fairly low awareness rate of the CIO model of 30%, so as awareness of the CIO model develops over time we could expect to see more charities wanting to be established under the CIO model.
- 51) The Commission's survey found differences in the likelihood of take up of the CIO depending on the income of the charity, with under £10k charities having the lowest likelihood (6%). This increased to 30% for charities with an income between £100k and £1 Million.
- 52) To provide a rough forecast of the levels of interest from current unincorporated charities, we can use the numbers of charities in the different income brackets and the percentage likelihood of take up as indicated by the Commission's survey. The results are provided in table 1 below:

Table 1 – Numbers of unincorporated charities likely to adopt CIO form			
Income band	Number of main registered charities	% likely to adopt CIO	Number of charities likely to adopt
Under £10k	73,215	6%	4,393
£10k-£100k	45,048	14%	6,307
£100k-£1 million	12,429	30%	3,729
£1 million +	1,450	26%	377
Total	132,142	11%	14,805

- 53) If anything the figures in table 1 represent a low estimate of the numbers of charities likely to adopt the CIO, as they are based on a low degree of awareness of the CIO model (only 30% of those surveyed).
- 54) Some indirect costs may be incurred initially by existing unincorporated charities wishing to benefit from the opportunity of incorporation and the level of costs will vary on a case by case basis. For example there may be legal advice needed on the transfer of various assets from the unincorporated charity to the CIO, or around the transfer of staff or pensions. There can be no conversion process for unincorporated charities to transfer to the CIO model because an unincorporated charity has no existing corporate legal personality. However these indirect costs are not considered to be any more than would be incurred if an unincorporated charity sought to incorporate as a company limited by guarantee.
- 55) For new charities seeking registration as a CIO there should be no significant cost difference compared to initial registration with the Charity Commission as any other legal form of charity and should be more than off-set by savings through obviation of the need to comply with company law requirements and registration with Companies House if a corporate form is desired.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];

The impact of the Regulations will be monitored on an ongoing basis by the Charity Commission and the Office for Civil Society, Cabinet Office. The 2006 Act also requires (section 73) the Minister for the Cabinet Office to appoint a person to evaluate the impact of the Act within five years of Royal Assent, and to lay a report on his or her findings before Parliament. The statutory review of the Charities Act 2006 is expected to commence from April 2011.

As the CIO will not be implemented by the time the statutory review of the Charities Act takes place, a separate review of the CIO will be undertaken jointly by the Office for Civil Society and Charity Commission within three years of the CIO provisions coming into force.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

Review will assess the effectiveness of the CIO as a model of incorporation for charities, particularly in comparison to other legal forms of charity.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

There is no existing equivalent to the CIO - the closest existing legal structure for comparison would be the company limited by guarantee.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

Charities find the CIO structure easy to set up and run.

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

The Charity Commission will hold information about all CIOs.

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]

N/A

