

## **Frequently Asked Questions: SCIOs**

### **What is a SCIO?**

The Scottish Charitable Incorporated Organisation (SCIO) is a new legal form for charities registered in Scotland. The SCIO will be a corporate body able to enter into contracts, employ staff, incur debts, own property, to sue and to be sued. As such, it will provide a high degree of protection against personal liability for its charity trustees. It will also provide some reassurance for those entering into contracts with it, and for creditors. Unlike charities that are companies limited by guarantee, SCIOs will have OSCR as a single regulator. The SCIO will provide another option for bodies wishing to register as charities, and for existing Scottish charities wishing to adopt a different constitutional form.

### **Why have SCIOs been created?**

The SCIO was proposed in the Charities and Trustee Investment Scotland Act 2005 as a legal form that would offer some protection to charity trustees from personal liability, while not subject to the same reporting and regulatory requirements as a company. Scottish Ministers announced in October 2010 that they would take steps to bring SCIOs into being from April 2011. The **legislation required to make it available** is currently making its way through the Scottish Parliament.

### **What will make the SCIO different from other legal forms?**

There are a number of important differences that set the SCIO apart. Firstly, unlike other charities, the SCIO's existence is dependent upon its charitable status. This means that the SCIO must cease to exist if it is removed from the Scottish Charity Register. This is a very important point to consider before applying to become a SCIO. Also, the SCIO's members are subject to some of the same duties as charity trustees.

### **Would becoming a SCIO be right for my organisation?**

You should carefully consider whether being a SCIO will meet the particular needs of your organisation, and the implications of such status. There will be some important differences between being a SCIO and any other kind of body with charitable status in Scotland. OSCR's guidance will set out some of the key differences and this may help you in deciding whether being a SCIO is suitable for your organisation. We strongly recommend that you seek advice from intermediary bodies, support organisations and professional advisers. OSCR's guidance will also contain a list of Useful Contacts.

**What are our duties in becoming a SCIO?**

There will be some important differences in the duties and requirements of a SCIO compared to other charities, for example in the qualifications, duties and powers of members; the requirement for the SCIO to keep registers of its charity trustees and members and to provide copies of these registers; and references to SCIO status in the charity's documents. OSCR's guidance will set out these requirements in detail.

**What are the advantages and disadvantages of becoming a SCIO?**

Only you can decide whether being a SCIO is in the best interests of your charity. However, it is worth noting that, compared to unincorporated legal forms such as unincorporated associations or trusts, the SCIO will offer a degree of protection to charity trustees against personal liability. This is also true of the company limited by guarantee, but the SCIO will be regulated only by OSCR, instead of reporting both to Companies House and OSCR; while the SCIO only reports to OSCR. The SCIO will also provide some protection for creditors when a SCIO dissolves itself, and this may reassure third parties dealing with SCIOs. A company must prepare fully accrued accounts regardless of its size, while a SCIO will be subject to the same accounting thresholds as unincorporated charities.