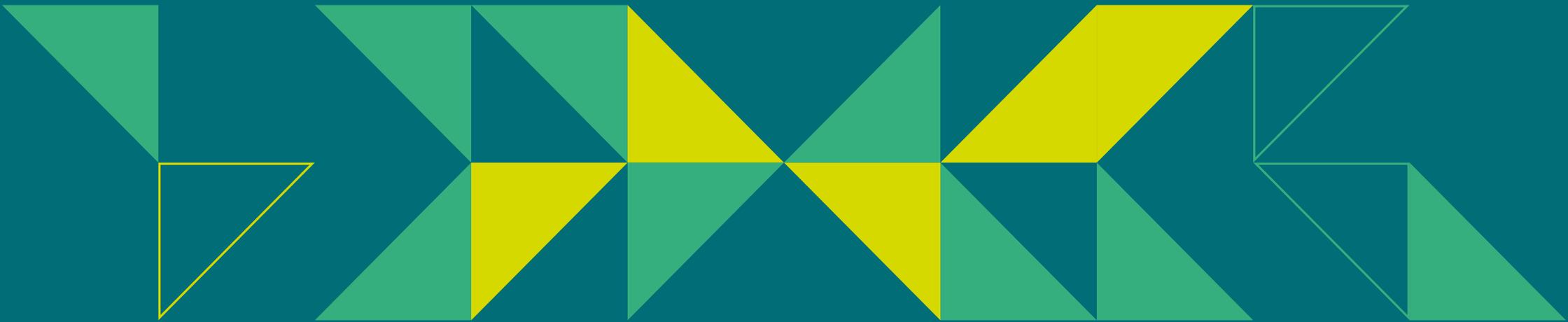




# LOCAL PARTNERSHIPS

The public sector delivery specialists



## GUIDE TO POTENTIAL CORPORATE VEHICLES

	Company limited by shares	Private company limited by guarantee	Community interest company (CIC)	Co-operative and community benefit society (CCBS) (formerly industrial and provident society)
<b>Legal identity separate from its members</b>	Yes	Yes	Yes	Yes
<b>Limited liability of members</b>	Yes – if wound up, limited to unpaid amount on the shares (including premium)	Yes – if wound up, limited to the (usually nominal) amount each member has agreed to contribute up to in their statement of guarantee	Yes – may either be limited by shares or guarantee	Yes – members’ liability limited to the amount unpaid on shares
<b>Governing documents</b>	Articles of association	Articles of association	Articles of association incorporating the specific requirements of the Community Interest Companies Regulations 2005 and related CIC legislation	Constitution or rules administered by members, generally on basis of one vote per member. Ability to merge into existing or new society (through resolution of members). Admission and withdrawal of members is set out in the society’s rules. Model constitution approved by the Charity Commission does not provide for transfers of membership
<b>Scope to obtain charitable status/tax benefits as a charity</b>	It is possible for a company limited by shares to be a charity, though very rare in practice; most are set up as companies limited by guarantee. Often however, trading subsidiaries of a charity are set up as companies limited by shares	Yes if it has charitable objects, the Charity Commission will register it as a charity	No	Not required to register as a charity but if it meets charitable criteria it may benefit from “exempt charity” status and obtain tax benefits

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<b>Regulation</b>	Companies Act 2006 and associated legislation	Companies Act 2006 and associated legislation  Charity law and Charity Commission if also a charitable company	Companies Act 2006 and subordinated legislation made under that Act and related legislation, including the Companies (Audit, Investigations and Community Enterprise) Act 2004 and the Community Interest Company Regulations 2005  Regulated by the Regulator of Community Interest Companies	Regulated by the Financial Conduct Authority FCA (and not by the Charity Commission even if its objects are charitable)
<b>Main potential sources of funding/income</b>	Generating surpluses from trading activities or sale of assets or other income. Members own shares which they either purchase or may be given (e.g. through an employee share scheme)	Fund raising/grants/donations  Trading or other income-generating activities if permitted by its objects  Borrowing if income sufficient and constitution permits	Similar to company limited by guarantee or other private limited company, but scope for raising equity and debt capital is restricted by their community benefit objectives and limitations on dividends and interest payments	Equity investment, grants, fundraising, trade or other income-generating activities and borrowing dependent on constitution
<b>Can it distribute profits?</b>	Yes	In principle yes, but companies limited by guarantee often have a prohibition in distributing profits to members under the articles of association	CICs can generate a profit. Dividends may be paid depending on the corporate structure and constitution of the specific CIC. Such payments are subject to controls (and in some cases a dividend cap) set out in CIC legislation	Generally it is a requirement of registration with the FCA that a CCBS should not distribute profits to members but retain them for the benefit of the community. Capital requirements apply

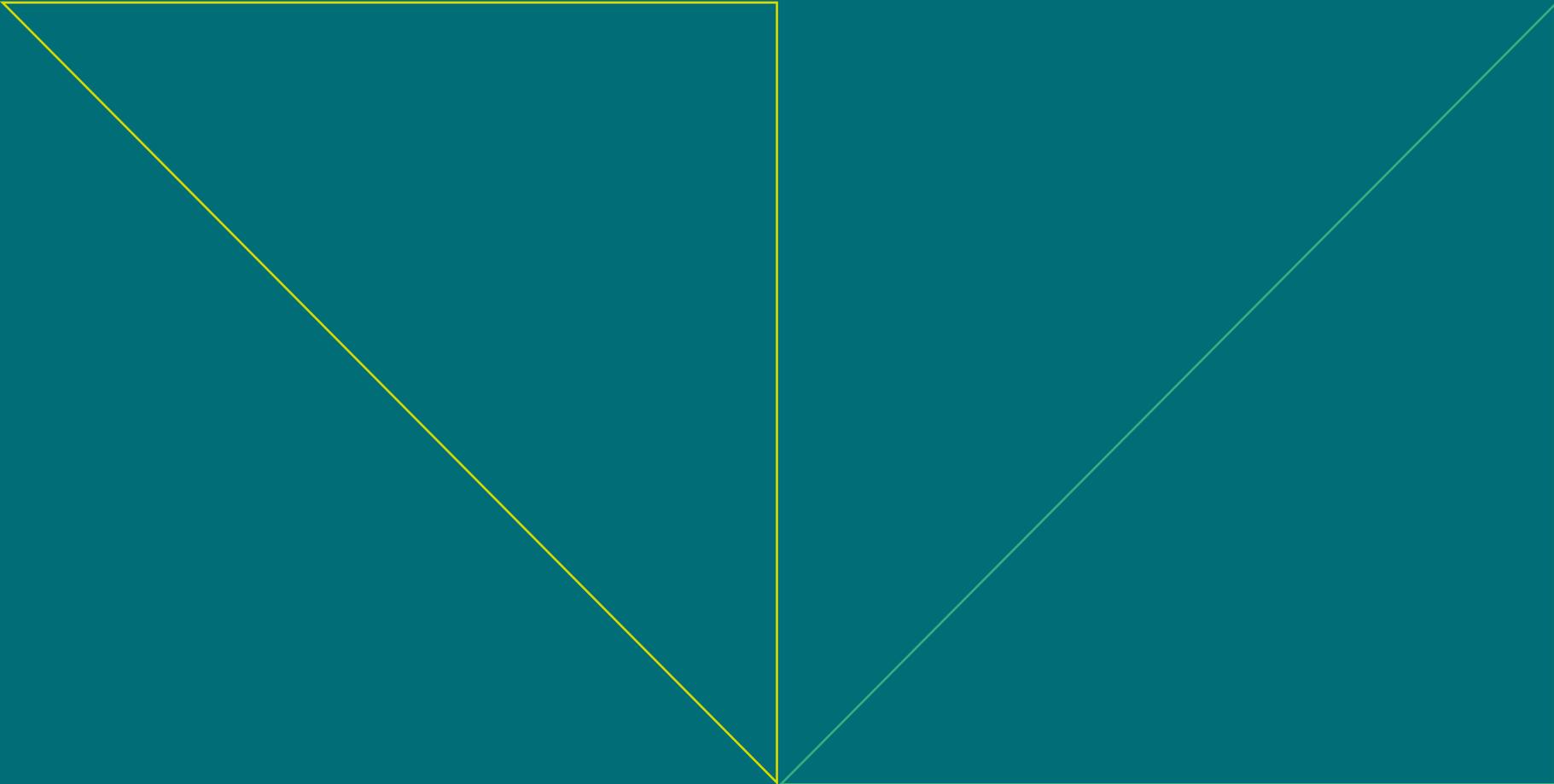
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<b>Asset lock</b>	No – but subject to maintenance of capital restrictions	No specific requirement but provisions with such an effect could be included in memorandum and/or articles of association	Articles must include an “asset lock” as set out in the CIC Regulations 2005. Assets can only be transferred at full market value (with limited exceptions). Surplus assets remaining on dissolution are protected for the community	Such provisions may be included in the CCBS’s constitution and will be if it has charitable status
<b>Minimum number directors/ members or equivalent</b>	At least 1 director (a natural person at least 16 years old) who may be the sole member. Members will decide the most important decisions regarding the company. Directors will carry out the day-to-day business	At least 1 director (a natural person at least 16 years old) who may also be the sole member.  If also a charity, the Charity Commission recommends a minimum of at least 3 directors (individuals)	As for company limited by guarantee, by shares or any other private company	Every CCBS must have a committee of management (sometimes called “directors”) and a secretary. Generally a minimum of three individuals plus a secretary
<b>Registration and costs</b>	Must register and file annual returns and accounts with Registrar of Companies, Companies House Standard incorporation certificate costs £15 (electronic)/£40 plus additional costs in preparing constitution (from c£300). Annual return filing fee of £13 (electronic)/£40. Must keep a register of persons with significant control	Must register and file annual returns and accounts with Registrar of Companies, Companies House. Standard incorporation certificate costs £15 (electronic)/£40 (paper) plus additional costs in preparing constitution (from c£300). Annual return filing fee of £13 (electronic)/£40. Must keep a register of persons with significant control	Must satisfy “community interest test” to register as and continue to operate as a CIC. Must register (a fee of £35 (or £25 if converting from another company structure)) and then file annual returns (£15) and annual accounts accompanied by a community interest report (£15) all with the Registrar of Companies, Companies House, which has a section overseeing CICs.  Must keep a register of persons with significant control	Registration with the FCA costs between £40 and £950 depending on the society’s level of deviation from the model rules. Annual fees depend on the value of assets. The annual return fee has been abolished (see FCA Policy Statement 10/7)

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<b>Typical use</b>	Most common business structure and well recognised by banks and other commercial organisations as a trading vehicle “for profit”	Attractive structure for not for profit organisations that require limited liability and seek a degree of continuity to do such acts as own land or other assets, enter into contracts, employ staff, hold a bank account and/or borrow money	Intended for social enterprises that wish to use their assets, income and profits for the benefit of a community, with mandatory asset lock and controls on dividends to reassure potential participants, donors or investors	CCBSs are organisations with social objects to run a trade or business for the benefit of the community. They are used by organisations which conduct an industry, business or trade for the benefit of the community where a wide membership receives an equal say in the organisation and in the management without a realisable financial interest
<b>Issues</b>	Query use of vehicle for collaborative Teckal type venture or for social enterprise given it is set up to generate and distribute profits to investors. Permitted under trading powers and the Localism Act 2011	Permitted under local authority trading powers and the Localism Act 2011. Limited availability of working capital makes this structure less well suited to commercial ventures	Basically a limited liability company with an added “overlay”. Doubtful whether additional costs and complexity justified by benefits over other forms. Permitted vehicle under trading powers but unlikely to be suited to public/public collaborative venture. Any direct private capital participation in the CIC would most likely preclude the “in house” procurement exemption	There must be special reasons why they cannot register as a company. In practice they are used less frequently than companies though permitted to be used in exercising trading powers  Shares in CCBSs differ from the shares in companies as they: <ul style="list-style-type: none"> <li>▶ remain at nominal value</li> <li>▶ have limited or no rights to receive returns</li> <li>▶ typically have ‘one member one vote’ regardless of the number of shares held</li> <li>▶ shares can be cancelled without any provision for their value</li> <li>▶ shares can be withdrawn by members</li> </ul>

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<b>Issues</b> <i>(continued)</i>				Capital requirements apply. Even transferable shares are not envisaged to be freely transferable

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