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mailout's cut out and keep guide to good practice

Clipout is our regular cut out and keep guide to good practice and vital contacts. This issue looks at setting up an organisation and has been produced in partnership with The Community Arts Forum (CAF) which is the umbrella body for community arts in Northern Ireland. With a membership that spans all art forms and all areas of Northern Ireland CAF aims to provide greater access to the arts to all people in Northern Ireland. www.caf.ie

Getting Organised

Establishing your own community arts organisation is like baking a cake. Get your ingredients and recipe right and you'll have much to enjoy – get it wrong and you'll have no end of belly aches.

However, follow this simple pointers and your new organisation could soon be cooking up a storm.

STEP 1: ASK THE BIG QUESTIONS

Before you do anything sit down and really think about what you are about to undertake. Setting up and running an organisation requires a bit of effort so it is vital that you know what you want the organisation to do and how you want it to do it. It is probably best if you get together with a few people (such as potential committee members, community workers/ volunteers, artists etc) to talk about over the key issues.

Consider the following:

- > Why do we need this organisation?
- > Is there a need or demand in the community for this organisation?
- > What does the organisation want to achieve?
- > How does it plan to achieve it?
- > Are there any other organisations currently doing the same/ similar job?

It is vital that you ask these questions as you can be guaranteed that any potential funder will be asking the same things.

STEP 2: GET ORGANISED

Now you have an idea about what you want to do and how and why you want to do it you have to think about the type of organisation you want to establish.

There are four types of organisation:

- > An Unincorporated Organisation
- > A Trust
- > A Co-operative
- > A Limited Company

The Unincorporated Association

The Unincorporated Association is the most common form of organisation within the voluntary sector and by far the simplest to set up.

In an unincorporated association the individual members of the organisation, have agreed or "contracted" to come together for a particular purpose. The aims and procedures are outlined in a constitution.

The advantage of the unincorporated association is the ease of which it can be established. You can draft your own constitution without the help of a solicitor. It is suitable for small organisations looking to run limited projects.

However, the unincorporated association is not really suitable for organisations looking to employ staff, receive public funds or trade in a big way. Another disadvantage of this type of group is the fact the

membership can be subject to change. Also members are responsible for the legal and financial obligations of the association, including any debts.

The Trust

A Trust is a legal body established for the benefit of others. Its aims and objectives are laid out in a Deed of Trust, which also appoints the first trustees. The trust exists independently of those who form it, has its own legal identity and funds transferred to it belong to the trust. This means that, unlike the unincorporated association, the liability of the trustees is limited to the funds of the trust provided they do not act contrary to the rules laid out in the Deed of Trust.

As the Deed of Trust is a formal legal document a solicitor must be consulted.

Trusts are suitable for the administration of funds or the management of property but are far from ideal for groups looking to manage or deliver arts programmes. Due to the level of legal responsibility associated with the position of trustee it difficult for the trustee to take decisions of a risky nature. Also there are legal issues if trustees delegate powers or responsibilities to officials, hampering any kind of decentralised decision making.

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The Co-operative

A Co-operative (either a Mutual Friendly Society or an Industrial and Provident Society) is a legal entity which is owned and democratically run by its members, where everyone has an input in decision making and there are no passive shareholders unless they hold non-voting shares.

A Friendly Society is a voluntary mutual organisation whose main purpose is to assist members (usually financially) during sickness, unemployment or retirement, and to provide life assurance.

An **Industrial and Provident Society (IPS)** is an organisation conducting an industry, business or trade, either as a co-operative or for the benefit of the community, and which is registered under the Industrial and Provident Societies Act 1965. IPSs fall into two categories:

- > bona fide co-operatives – these trade for the mutual benefit of their members
- > societies for the benefit of the community – these trade to benefit the broader community. There must be special reasons why it should be registered as an industrial and provident society rather than as a company under the Companies Acts. Societies for the benefit of the community are granted charitable status by the Inland Revenue.

IPSs are regulated by the Financial Services Authority. As different types of organisation may register as ISPs, they may be subject to different additional legislation and entitled to different privileges, depending on their business. To see if your organisation can become a co-operative or to register with the FSA visit:

www.fsa.gov.uk/Pages/Doing/small_firms/MSR/index.shtml

Other useful links include:

W: www.cooperatives-uk.coop/live/welcome.asp

The Limited Company

The company is probably the best form of organisation for a group looking to engage in significant artistic enterprises which involve substantial funds, contracts, legal commitments or the acquisition of property.

A company is a legal entity distinct from its founding members, which can hold property, deal with money and enter into legal commitments. A company's constitution is outlined in its Memorandum of Association and Articles of Association, which are included in the Companies Act. In a company it is the members who have control as they appoint and dismiss the Board of Directors. Members can even adopt a day to day managerial role.

In a limited company directors are not personally responsible for liability unless they break the company rules or allow the company to fail through negligence or fraud. It is common for arts organisations to be non-profit distributing companies limited by guarantee as the idea of share capital (money paid into a company by shareholders) is inappropriate for organisations with charitable objectives which bar return on capital or profit. In the event of the company becoming insolvent every member of the company pays a nominal sum (usually £1 or £5).

The disadvantages of the company model are:

- > It is more expensive to set up than an unincorporated association or trust
- > A company must comply with the regulations of the Companies Act which entail keeping certain records, proper accounts, detailed minutes of meetings and making various returns to Company Registration Office. (As such it is advisable to have a company secretary with knowledge of the Companies Act or access to legal advice.)
- > The company must be audited annually by a qualified accountant as defined in the Companies Act.

Although these responsibilities are quite stringent they do represent good practice for an organisation and are frequently requested by funding bodies. These also instil a sense of confidence in the governance of the organisation.

For a more comprehensive look at setting up your company visit:

W: www.companieshouse.gov.uk

A Healthy Constitution

If your group is likely to be about for some time then you should write down your aims and procedures in a constitution. A constitution is basically a written framework outlining the aims of your organisation, how it will operate and how decisions are made. Because the constitution lays everything out in black and white it helps resolve internal disputes, provides a formal means of getting your organisation recognised by law and answers questions that funders, or indeed anyone else, has about your group.

If your organisation is a relatively simple affair (ie an unincorporated association) you can write the constitution yourself.

It should include:

- > The Title organisation name
- > The Objects – the aims of the organisation
- > The Powers – how you will achieve your aims
- > The Members – who can join your organisation, how they can join, how they can be ejected etc.
- > The Committee – this should details on:
 - o The make up of the committee
 - o Committee functions
 - o Office bearers
 - o Meetings
 - o Annual General Meetings
 - o Accounts and audit
- > Amendments to the constitution
- > Dissolution – What happens if you dissolve your organisation

Creating a good constitution can be something of a balancing act. On the one hand you want your constitution to provide enough guidance that it prevents any confusion or dispute over aims and procedures. However, be careful that you are not restricting your organisation with a constitutional straitjacket. ■

For more useful information:

W: www.diycommitteeguide.org/index.cfm/section/article/page/UndstndGovDoc

You can obtain sample constitutions from a number of sources including CAF's virtual library:

W: www.caf.ie/virtuallibrary.asp