Definitions and Legal Structures in the Voluntary Sector

There are many terms which are used in the voluntary sector, or relate to different parts of it. Some of them tend to overlap and some are difficult to define concisely.

Here is a quick guide to the most commonly used ones:

The **voluntary sector -** this is an inclusive term for both charities and charitable organisations (not registered as charities), which undertake work of benefit to society. Many voluntary organisations employ staff to undertake a wide range of activities and many are of the size and stature of successful medium-sized businesses, although operating independently for the public good without profit distributing.

The **charity sector -** organisations must meet the strict conditions required for charity registration. Therefore, not all voluntary organisations are charities.

The **community sector -** this is used to include smaller more informal organisations and self-help initiatives at community level.

The **non-profit sector** or **not-for-profit sector -** refers to organisations which use surpluses for the benefit of the beneficiaries through direct grant or investment rather than providing managers or committee members with income. Many organisations do make profits on some of their activities but re-invest these into other work and projects.

The **third sector** - third after the statutory and private sectors. The third sector would include all of the above.

The **social enterprise sector** - this is becoming increasingly used, and although there are many aspects which link rather than differentiate a social enterprise from a charity or a social entrepreneur from a successful voluntary sector leader. The main difference is the source of funding and the ability of social enterprises to generate income directly from their activities which have a social purpose whereas charities usually need some financial support from charitable donations and grants. As with many definitions there is substantial blurring at the edges.

Legal Structures

Different types of organisations within the sector have to be set up with the appropriate legal structure. There are several types of structure available; here is a quick guide to the most common ones:

Unincorporated associations. This is when a group of people come together with a common interest or purpose, and will undertake work for the benefit of the public. They are governed by a constitution and managed by a management committee. They are not recognised in law as a legal entity; therefore the liability of the governing body is unlimited.

Incorporated organisations. This is when the organisation is recognised in law as a legal entity and is considered to be a 'body' separate from its directors / trustees. Such corporate bodies can own land and enter into contracts in the name of the organisation itself. The directors are agents of the company and cannot normally be held personally liable for its debts.

Company. The most common form of corporate body is a 'company' which can be limited by guarantee or by share. A company is managed by directors and is regulated by Companies House. It can be charitable or non-charitable.

A Charitable Company is a limited company with charitable aims. Charitable Companies are regulated by the Charity Commission (as well as Companies House) and must be limited by guarantee, not by share. The liability of members is limited, to an agreed sum such as £1, if the organisation has to wind up.

Community Interest Companies (CIC's). A CIC is a limited company with special features to ensure that it works for the benefit of the community. It differs from a charitable company in that it can be established for any legal purpose which benefits the community, whereas a charity must have exclusively charitable purposes. A further advantage is that a CIC is subject to lighter regulation than a charitable company. A CIC may not be eligible for funding which is available to a charity. CICs commit their assets and profits permanently to the community by means of an "asset lock", ensuring that assets cannot be distributed to shareholders. They report to the Regulator of Community Interest Companies. A big advantage is that a CIC's not-for-profit status is visible as well as assured. A CIC cannot be a registered charity – they will not have the benefits of charitable status, even if their objects are entirely charitable in nature. They have to register at Companies House and with the Regulator of CIC's.

Charitable Incorporated Organisation (CIO's). This new form of charitable organisation gives a charity the main advantages of a Charitable Company – a legal personality and limited liability – but it is registered and regulated solely by the Charity Commission. Annual accounts can be kept on a 'receipts and payments' basis (for CIOs with an annual income below £250,000), making them simpler and cheaper than the accruals accounts required of a

Charitable Company. The Trustees Annual Report and Annual Accounts have to be submitted to the Charity Commission annually.

There are many sources of information available regarding voluntary sector legal structures and definitions and terminology. For further information about structures and companies, you can visit the Charity Commission or the Companies House websites:

https://www.gov.uk/government/organisations/charity-commission

https://www.gov.uk/government/organisations/companies-house