

How to set up a Company

What do you need to decide?

1. Do you need a Company?

A Company is formal "incorporated" organisation structure. Company registration creates an organisation that is a legal entity in its own right and that enters into contracts in its own name. Incorporated organisations have "limited liability"; this means that it is rare for individuals involved in an incorporated organisation to be sued personally for its debts.

2. What sort of Company?

Whilst the most common form of Company is one with Share Capital, if you want public funding you will need to form a Not for Profit Company. This means that any profit the Company has at the end of the financial year must go into its reserves, it cannot be distributed to shareholders. The usual way to create a Not for Profit is to form a Company Limited by Guarantee.

3. What will the Company name be?

Check via [Companies House website \(https://www.gov.uk/choose-company-name\)](https://www.gov.uk/choose-company-name) if the name you want is available and can be used.

4. Where will the Company's Registered Office be?

This must be an address that is:

- A physical address (this can be a home address). It can be a PO Box but must include a physical address and postcode after the PO Box number
- In the same country that the company is registered in.

5. Who is going to be involved?

- Board: For Not for Profit companies a Board of at least two Directors is recommended.
- Company Secretary: A Company no longer has to have a Company Secretary but the Company Secretary's tasks still have to be done so it may be best to formally appoint someone to this role. The Company Secretary does not need to be a member of the Board of Directors and if there is only one Director they cannot also be the Company Secretary.

What do you need to do?

1. Articles of Association

You will need "Articles of Association" (sometimes referred to as your "constitution" or "governing document"), a Memorandum of Association signed by the first members of the company (the "subscribers") and the Companies House form IN01.

2. Company with Share Capital

The easiest way to set up a Company with share capital is to complete form IN01 on the Companies House website, answering Question A.8 with Option 1 ("I wish to adopt one of the following model articles in its entirety"), which will automatically generate your Articles of Association and ticking the box "Private limited by Shares". If you do this you will be able to make an online application, which usually takes 24 hours and costs £15.

Anything else?

You may need to take advice from a financial expert on your initial share capital and its distribution.

3. Company Limited by Guarantee

How to do it yourself: Complete form IN01, answering Question A.8 with Option 1 ("I wish to adopt one of the following model articles in its entirety") and ticking the box "Private limited by guarantee". You cannot submit Company Limited by Guarantee applications online, they must go by post, the fee is £40 and registration currently takes around 10 working days. There is also a "same day" incorporation service, the fee is £100.

Anything else?

If you use these model articles you will not have shareholders but you will not automatically create a "not for profit" company as the Articles do not contain these provisions as standard. This may be a problem with funders who will generally only fund companies that do not distribute their profits. Standard Articles also do not include an "Objects" clause that says the company has been set up to promote the arts, again something many funders will want.

4. Company Limited by Guarantee: Using an online Company Formation Service:

Online Company Formation service, these are swift as they have their own online filing software. Many do offer a Company Limited by Guarantee formation service. Costs range from around £50 to £150 but the services are not usually tailored to individual organisation needs.

Anything else?

- You should check the Articles have "not for profit" provisions, this is rare.
- You will probably need to add an "Objects" clause that says the company has been set up to promote the arts.
- Some online services create Companies Limited by Guarantee as "unregistered charitable" Companies. If you opt to set up a company like this the Charity Commission may insist you apply to become a Registered Charity as soon as you have £5,000 of income, this is a lengthy and demanding process that is best left until it is felt to be necessary.

5. Company Limited by Guarantee: Using ITC

ITC provides an Incorporation Service for its members. The ITC services costs £200 + VAT (plus the Companies House £40 fee). Our expertise is the Not for Profit sector, so we can provide Articles of Association that have Objects that will satisfy funders (but that do not make the company automatically charitable) and all necessary "not for profit" provisions. We provide back up and guidance through the application process and we will tailor the Articles to fit your individual needs if necessary. **Contact Jackie** (<mailto:j.elliman@itc-arts.org>) at the ITC office if you would like to use this service.