



## ULSTER BRANCH

IRISH RUGBY  
FOOTBALL UNION



CASC vs Charity

Information Leaflet For  
Rugby Clubs



This leaflet sets out how your rugby club is structured, why it matters and gives an overview of the type of structures and legal statuses available. This leaflet is for information purposes only and you should always seek appropriate legal advice before making any decision on the way forward.

## **Why does organisation structure matter to your rugby club?**

- It can provide protection for those involved in running the club
- The club can save money on tax benefits
- It promotes good governance and better running of your rugby club

### **1. Structure**

Your first step is to check how your club is structured. Your club could be unincorporated or incorporated and each carry their own advantages and disadvantages.

The benefits and drawbacks of incorporated vs unincorporated

#### *Advantages – Unincorporated*

- No formal legal requirements
- No extra admin

#### *Disadvantages – Unincorporated*

- Not a legal entity
- Unlimited liability
- Increased personal risk for committee members

#### *Advantages – Incorporated*

- More formal structure
- Promotes good governance
- Limited liability
- Viewed well by external parties

### *Disadvantages – Incorporated*

- Formal legal requirement
- Admin(e.g. annual return/annual accounts)
- Additional responsibilities for Directors

### **When is it suitable to incorporate?**

<b>Unincorporated</b> Generally suitable if:	<b>Incorporated</b> Generally suitable if:
Small local club Don't own assets (property, etc) Don't take on any contracts Not involved in high risk sport Protected fully through third party insurance	Employ staff Apply for finance (loans or grants) Own assets Entering into contracts Buying buildings

## **2. Status**


Once you have decided which legal structure is best for your rugby club you must decide on the best type of status. You can be either a CASC or a charity or stay as you are (if you do not have exclusively charitable purposes).

### **What is a CASC?**

A CASC is a community amateur sports club which provides charity type relief for local sports clubs. There are over 6,000 clubs registered in the UK as CASCs including some of the rugby clubs within Irish Rugby Football Union (Ulster Branch).

Criteria:

- Must be open to the whole community
- Open to all without discrimination
- Ensure cost is not prohibited

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- Members must be able to participate fully
  - Organised on an amateur basis
  - Non-profit making and re-invest any profits in the sports club
  - Does not exceed limits on payment to players (NB IRFU Regulation 6 does not permit payment to players)
  - Restrictions on assets when wound up

Main purpose is provision of facilities and promotion of eligible sport and importantly, more than 50% of participating members must participate in the eligible sport. The rugby club must meet income tests to ensure it is mainly concerned with sport activities and these include unlimited income from members but a £100,000 limit on income from non-members. Those running the club must be ‘fit and proper persons’.

### **Costs associated with membership and participation**

- Clubs where membership and participation costs a total £520 or less a year will be considered to be open to the whole community;
- Clubs where membership costs (excluding participation costs) are above £1,612 a year will not be eligible;
- Clubs where membership and participation costs exceed £520pa must make special provisions for low income members to play for less.

### **Organised on an amateur basis**

- It is non-profit making and its governing document requires any net assets on dissolution to be applied for approved sporting purposes;
- It provides for members and their guests only the ‘ordinary benefits’ of an amateur sports club;
- A minimum of 50% of members must be participating members (play 12 times pa)
- It does not exceed the limit on paid players (NB IRFU Regulation 6 does not permit payment to players)



## Non-profit making

- Its governing document requires any surplus income or gains to be reinvested in the sports club;
- Surpluses or assets cannot be distributed to members or third parties. This does not prevent donations to other clubs that are registered as Community Amateur Sports Clubs.


## Payments to members

- Clubs may enter into agreements with members for the supply to the club of goods or services;
- Clubs may employ and pay remuneration to staff who are club members (not officers).
- A CASC could pay members for services such as coaching or grounds maintenance but would not, for example, normally pay members to play. However under new regulations clubs will be allowed to pay a maximum of £10,000 a year in total to players to play for the club (NB IRFU Regulation 6 does not permit payment to players)

## ‘Ordinary benefits’ of an amateur sports club

Some of the rules as to what constitutes an ‘ordinary benefit’ will be amended in 2014. The ordinary benefits of an amateur sports club include:

- Provision of sporting facilities
- Reasonable provision and maintenance of club-owned sports equipment
- Provision of suitably qualified coaches
- Provision, or reimbursement of the costs, of coaching courses
- Reimbursement of certain travel expenses incurred by players and officials travelling to away matches (within HMRC guidelines)
- Sale or supply of food or drink as a social adjunct to the sporting purposes of the club.



## Changes to CASCs – HMRC 2014/2015

New HMRC regulations and guidance are anticipated for CASCs in late 2014/early 2015. These changes will bring significant additional benefits to any rugby clubs registered as CASCs or thinking about registering as such. The key benefits of the new Rules will be:

- Business Rate relief
- Gift Aid
- Exemption from Corporation Tax profits if your trading income is less than £50,000 per year and your rental income is less than £30,000 per year
- Exemption from Capital Gains Tax

### Key Considerations

How significant are the benefits for your rugby club? Does your club meet the new CASC criteria? You may need to change your club's constitution if not.

### Charity

#### Can a rugby club be charitable?

For a rugby club to be charitable it must promote amateur sport. Sport means sports or games which promote health by involving physical or mental skill or exertion. An organisation advancing amateur sport can only be charitable if each of the following apply to it:

- It involves the advancement of a sport or game
- The sport or game promotes health by involving physical or mental skill or exertion
- The participants are 'amateur', not professional
- The organisation has purposes that are exclusively charitable
- It is for the public benefit



## What is a charity?

“Charity” means an institution which is established for charitable purposes only and falls to be subject to the control of the Court in the exercise of its jurisdiction with respect to charities.

To be a charity in Northern Ireland an organisation:

- Must have purposes which fall under 1 of 12 descriptions of charitable purposes listed in the Charities (NI) Act 2008
- Promotion of Amateur Sport – one of the 12 charitable purposes
- The purposes must be for the public benefit.
- Purposes are what the charity was set up to achieve. This is different to ‘activities’, which means what the Charity does in order to carry out its purposes
- A charity’s purposes will normally be set out in a Governing document

## Do you need to register as a charity?

- The Charity Commission for Northern Ireland (“CCNI”) introduced compulsory registration of charities on 16 December 2013
- A club cannot be both a CASC and a Charity
- If the Club is not a registered CASC it may need to register with CCNI
- If your rugby club is considered a charity the Trustees/Committee are legally obligated to apply to CCNI to register the Club as a charity (Expression of Intent)

## What is the public benefit?

This is the way in which a rugby club’s purposes are beneficial and the extent to which they are beneficial.



The benefit must:

- Flow from the charity's purposes
- Be capable of being demonstrated
- Be beneficial, not harmful

Public?

- Be to the public or to a section of the public
- Need to identify intended beneficiaries
- Not provide a private benefit to individuals unless this benefit is incidental
- 'Members' can benefit – playing, volunteers, helpers


### **What about public benefit vs harm?**

- Harm must not outweigh any benefit, example, the promotion of a sport or game that necessarily involved a high risk of serious injury without reasonable precautions being taken to minimise that risk might be regarded as harmful to health, rather than promoting it
- E.g. rugby club must take reasonable precautions to safeguard against concussion or head injuries (headguards, medical staff in attendance, training, appropriately qualified coaches, adhere to coach to player ratios)

### **How will the CCNI assess your application to become a charity?**

- Check purposes fall within one of the 12 descriptions of charitable purposes of which amateur sport is one
- Determine whether organisation's purposes meet the public benefit requirement
- Ensure purposes are exclusively charitable
- Ensure trustees are eligible to act as trustees
- Trustees have duties and responsibilities to their charity, its supporters and beneficiaries



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- Some people can be disqualified from acting as a trustee (convicted of an offence involving deception or dishonesty, undischarged bankrupt, previously removed as a charity trustee or disqualified as a company director)


## **How can a rugby club register to become a charity?**

Your club must fill in an Expression of Intent form to indicate that you think your club may be charitable (available on the CCNI website) and the club will then be called forward to register. The CCNI have published Tranche Lists on their website which lists the organisations that have been called forward to register and those who will be called next. Once you are called to register you have three months to complete your online registration form and then the CCNI have three months to raise any queries about the information that you have provided. You must also provide a signed governing document, copy bank statement and signed Trustee Declarations from each member of your committee.

## **3. Summary of differences between a rugby club with no status (unincorporated), CASC or charity**

### **No Status**

- No regulator can restrict own membership
- Able to distribute profits (reference organisation governing document)
- No restrictions on activities
- Reliance on existing sources of funding
- No legal definitions to meet
- No public benefit requirement
- No restriction on sports pursued
- Player can be paid (NB IRFU regulation 6, no payment to players)

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- No Gift Aid exemption
  - No SDLT relief (stamp duty land tax)
  - Income from non-members is taxable
  - Fundraising income is taxable
  - Rental income taxable
  - Capital gains and interest taxable
  - Corporation tax on all taxable profits
  - Discretionary rates relief
  - Funds can be applied generally for any purpose within the rules
  - Normal VAT rules apply


## **CASC**

- Regulated by HMRC
- Membership unrestricted
- Can't distribute profits to members
- Social membership and trading, for example, a bar is generally permitted
- Grant funding generally less available
- Have to meet HMRC's definition of sport and their purposes must conform to CASC rules
- Club may need to change its rules, e.g. on dissolution
- Upon dissolution assets to go to another CASC or sports governing body
- No public benefit requirement
- Sports pursued must be drawn from Sports Council list
- Payment of players is subject to the rules (NB. IRFU Reg. 6 no payment to players)
- Gift Aid on individual donations (no relief on company donations) but this is likely to change with the new CASC rules
- Payroll giving is not allowed
- No income and corporation tax relief or gifts of shares and property
- Inheritance tax relief allowed on gifts
- No SDLT relief

- Income from non-members is taxable
- Fundraising income exempt from tax where a turnover is less than £30,000
- First £15,000 of rental income exempt
- Capital gains and interest exempt from tax
- Corporation tax on all taxable profits
- 80% mandatory rates relief with discretionary relief for remaining 20%
- Corporate tax liabilities can arise if funds are applied for non-qualifying purposes
- Normal VAT rules apply
- VAT exemption for playing members will be available

## Charity

- Regulated by the CCNI
- Membership restricted to players, volunteers and helpers
- Can distribute profits to members
- Social activity and membership and trading, i.e. a bar must be kept separate
- Grant funding more readily available
- Rugby club must meet definition of advancing amateur sport
- Club may have to change rules as objects/ purposes must be exclusively charitable (see page 6)
- Club must meet public benefit requirement (see page 8)
- Payment of players not allowed unless coaching or travel to away matches
- Gift aid on individual and company donations
- Payroll giving allowed
- Income and corporation tax relief for gifts, shares and property
- Inheritance tax relief on gifts
- SDLT relief allowed
- Primary purpose trading income exempt from tax
- Fundraising income exempt from tax if one off or by using a trading subsidiary

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- All rental income exempt from tax
  - Capital gains and interest exempt from tax
  - Corporation tax on all taxable profits subject to exemptions
  - 100% rates relief on the portion of the property occupied by the charity for charitable purposes or for the public benefit
  - Corporation tax liabilities can arise if funds applied for non-qualifying purposes
  - There are special VAT reliefs for charities, for example, no VAT may be payable on new sports buildings

### **“Advantages” – Charity**

- More financial exemptions –tax
- More attractive to funders - access to funding streams only open to charities
- Transparency and accountability – public confidence as visible regulation
- Potential of increased donations as public ability to quickly and easily search for charities working in particular areas
- Meet statutory obligation to register

### **“Disadvantages” – Charity**

- Have to wait for charity registration number before you can apply to HMRC for charitable tax exemptions (can take 6 weeks)
- ‘Permanent’ status and funds are ring-fenced for charitable purposes
- Trustee and Accounting Information available on public online register of charities
- Subject to monitoring and compliance requirements – Trustees Annual Report and Annual Return
- Scrutiny of CCNI
- Strict no ‘trading’ rules
- Trustees should avoid a conflict of interest
- Trustees cannot generally receive a financial benefit



## **“Advantages” – CASC**


- Easier process to register
- Less regulatory requirements, e.g. accounting
- Bar – allowed

## **“Disadvantages” – CASC**

- Less tax and rates exemption
- Limits on income
- Less funding opportunities available

## **4. Transferring from a CASC to a Charity and vice versa – is this possible?**

- The CCNI supporting document for charity trustees in relation to the advancement of amateur sport states: “while an organisation advancing amateur sport can be a charity or a CASC, it cannot be both. An organisation registered as a CASC cannot apply to register as a charity.”
- It is more difficult for a charity to transfer to a CASC. Once you are registered as a charity the assets of the club are ring-fenced for charitable purposes only. This is a permanent status and the club have to sell its assets at market value and revert the profit back into the charity before converting to a CASC.
- It is quite difficult to de-register as a CASC from HMRC and a rugby club cannot ask to be removed from the Register. This is a decision that HMRC takes. You could voluntarily wind up the rugby club and transfer the assets to a new body but this could trigger a tax charge (deemed disposal).



## 5. Finally - Next Steps

### What to do next?

- Look at governing document
- What is your legal structure -unincorporated/company
- What is your legal status - none/CASC/Charity
- Decide whether your legal structure is the right vehicle
- Decide what legal status best suits the needs of your club

### Options

Remain incorporated – do nothing (if you do not have exclusive charitable purposes)

Remain incorporated – become a CASC

Remain incorporated – become a Charity

OR

Remain unincorporated – do nothing (if you do not have exclusive charitable purposes)

Remain unincorporated – become a CASC

Remain unincorporated – become a Charity

Remember

- No one size fits all - look at it on a case by case basis
- Seek Advice
- Many rugby clubs with 'No status' may not qualify as a charity as their purposes are not exclusively charitable
- Other potential solutions
- Group registration with one model governing document for all rugby clubs
- Approach HMRC to review overall position of Rugby Clubs and come to agreement