

# Application for incorporation as a Scottish Charitable Incorporated Organisation (SCIO): application form and guidance notes

## Before you start

### 1. Introduction

You are applying for the incorporation of a Scottish Charitable Incorporated Organisation (SCIO) under the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

The 2005 Act sets out certain conditions which you must meet to become a SCIO. The Office of the Scottish Charity Regulator (OSCR) is the regulator and registrar of SCIOs. We will decide whether your organisation fulfils the requirements for becoming a SCIO.

These guidance notes will explain how to get ready to apply and detail the requirements for being a SCIO. The second section will guide you through the application form, step by step.

We use what you put on the form to begin our assessment of your application and it will help us to reach a decision.

### 2. Preparing to make your application

Before you fill out the application form, we recommend that you read the following OSCR guidance.

On becoming a SCIO, and whether this is the right legal form for your organisation:

- [SCIOs: A Guide](#)

On the requirements for becoming a charity and how we make our assessment:

- [Meeting the Charity Test guidance in full](#)
- [Being a Charity in Scotland](#)

You might want to refer to the relevant section of the guidance as you fill out the form. You can find these publications and other guidance about becoming a charity on our website at [www.oscr.org.uk](http://www.oscr.org.uk).

### 3. Assessing if you are eligible to be registered as a SCIO

To become a SCIO you must:

1. Pass **the charity test** as set out at sections 7 and 8 in the 2005 Act.
2. Have **a constitution** that contains the required elements as set out in section 50(3) of the 2005 Act, and in the Scottish Charitable Incorporated Organisation Regulations 2011 (the General Regulations).

3. Have a principal **office in Scotland**.
4. Have at least **two members**. The SCIO's first members are the two or more individuals who apply for the incorporation of the SCIO.

We explain more about the first two conditions below.

### 3a. What is the charity test?

Our guidance, [Meeting the Charity Test](#), explains the charity test in full. In summary, to pass the charity test your organisation must meet the following requirements:

- it must have only **charitable purposes**
- its activities must provide **public benefit** in Scotland or elsewhere.

It will fail the charity test if:

- its governing document allows its property to be distributed or applied for **non-charitable purposes**
- its governing document expressly permits **Government Ministers to control its activities**
- it is a **political party** or one of its purposes is to advance a political party.

When we look at whether your organisation provides **public benefit**, we need to consider if:

- there is any **private benefit** from its activities
- there is any **disbenefit** to the public from its activities
- there are any **undue restrictions** on accessing the benefit your organisation provides.

### 3b. What must a SCIO constitution contain?

The legislation does not set out a standard format for a SCIO's constitution but it does require each SCIO constitution to contain certain basic information and rules which set out the minimum requirements of how the SCIO will be governed.

A SCIO's constitution must contain:

- its name and the charitable purposes for which the SCIO is established
- membership rules:
  - who is eligible to be a member?
  - how does a person become a member?
- charity trustee rules:
  - who is eligible to be a charity trustee?
  - how are charity trustees appointed? A SCIO must have at least three charity trustees (these are the people who will generally manage and control the charity).
- details of the procedure members and charity trustees must follow to withdraw from membership or their positions as charity trustees, and how they may be removed from the SCIO
- any restrictions on the powers of the SCIO. A SCIO has powers under the 2005 Act to do anything to further its charitable purposes unless the constitution restricts those powers
- the organisational structure of the SCIO
  - for example, are the charity trustees and the members identical (a single-tier structure), or does it have a separate body of members (a two-tier structure)?
- procedures for meetings
  - how will meetings be convened and recorded? This should cover both members' meetings and charity trustees' meetings
  - what is the quorum for any meetings of the SCIO? Again, this covers both members' meetings and charity trustee meetings
  - what voting rights do members and charity trustees have?
  - how will resolutions be passed?
- any restrictions on the remuneration of charity trustees which are additional to the restrictions in section 67 of the 2005 Act, for example, a ban on remuneration being paid to charity trustees. Please see our **Guidance and good practice for Charity Trustees**, for further details on the remuneration of charity trustees
- procedures for dealing with any conflict of interest
- details of how the SCIO will use any surplus assets it has at the time of its dissolution. These assets must be used for charitable purposes which are the same as or which resemble closely the SCIO's own purposes.

# Step-by-step guidance to completing your application form

These notes will take you through the questions in the application form in order. They also explain what information we are looking for and, in some cases, what we will consider when we assess your response.

## Q1. Organisation name

Please enter the full name of your organisation as it appears on your constitution. You should ensure that this name is not an objectionable name; that is, a name which is:

- the same as, or too like, the name of a charity. Check the [Scottish Charity Register](#) to make sure the proposed name is not already taken by another charity;
- likely to mislead the public as to the true nature of the purposes of the body or of the activities it carries on, or intends to carry on, in pursuit of those purposes;
- likely to give the impression that the body is connected in some way to the Scottish Administration, Her Majesty's Government in the United Kingdom, or any local authority, or with any other person, when it is not so connected. If the name contains a word you require permission to use (e.g. Royal), you will need to provide evidence to OSCR of the permission to use that word; or
- offensive.



From 1 January 2018 Scottish Charitable Incorporated Organisations (SCIOs) and Charitable Incorporated Organisations (CIOs) appear in the Registrar's Index of Company Names, which is maintained by Companies House. Please read [FAQs: SCIO's on the Index of Company Names](#). If your proposed charity name includes a sensitive word or expression we will expect applicants to confirm that they have the prior permission of Companies House to use it.

## Q1b. English translation

If the organisation's name is in a language other than English, but can be readily translated, please enter the English translation. This will allow us to more easily assess whether the name is objectionable as described in Q1a above.



## Q1c. Any other name by which the organisation will be known

Please enter any other name by which the organisation will be known. For example, the organisation may wish to operate under an acronym or a shorter 'trading name'.



#### Q1d. Other Regulators

Please tell us if the SCIO is currently regulated or seeking registration with any other regulator, e.g. Care Inspectorate etc.



# Application for incorporation as a Scottish Charitable Incorporated Organisation (SCIO)

Sections 54 to 55 of the Charities and Trustee Investment (Scotland) Act 2005

Some of the information you give in this form will become publicly available on the Scottish Charity Register. These sections are marked below with an asterisk (\*).

## Q1. Organisation name

### Q1a. Proposed legal name\*

### Q1b. English translation

### Q1c. Any other name by which the organisation will be known\*

**Q1d. Other Regulators**

Regulator Name (1)

Reference Number (1)

Regulator Name (2)

Reference Number (2)

Regulator Name (3)

Reference Number (3)

## Q2. Contact details

### Q2a. Principal office address



If the application to become a charity is successful OSCR will direct its communication to the principal office of the charity.

Please provide us with the name of an individual who we will communicate with at the principal office. Information received from OSCR should be shared with all the charity trustees, as they are jointly responsible for managing the charity.

OSCR must keep a register of charities known as the “Scottish Charity Register” (“the Register”). Under the 2005 Act the Register **must** contain a separate entry for each charity entered in it which contains the **principal office of the charity**, or where it does not have such an office, the name and address of one of its charity trustees.

Section 49 (2) b of the 2005 requires that a SCIO **must** have a **principal office in Scotland**.

The principal office address can be your organisation’s address, the address of a third party acting on your behalf, or any other address you choose. However, it must be an address at which you will be able to deal with all the official letters and notices you receive from OSCR.

If you use a PO Box number, you must also provide the full physical address and postcode.

You must let us know if there are any changes to the details you have provided in this section to ensure that the charity will continue to receive important information from us, and that the information entered in the charity’s entry in the Register is up to date.

**Q2. Contact details**

**Q2a. Named contact details**

Title  First name

Last name

Position in the organisation

Principal office address\*

Postcode*	

Tel no.

Mobile no.

Email

Alternative Email

**We will usually contact you by email.**

## Q2b Withholding the principal office or charity trustee name and address from the Scottish Charity Register



Under section 3 (4) of the 2005 Act an organisation has the right to ask us not to publish its principal office or trustee's name and address on the publicly available Scottish Charity Register.

We can only exclude the details from the Register if we believe that publishing this information is likely to jeopardise the safety or security of any person or premises.

**We would not normally withhold an address simply because it is a home address.**

OSCR requires that the charity explores alternative options for the principal office of the charity or name and address of one of its charity trustees, before we consider any request for withholding these from the Register. For example, using an alternative charity trustees' contact details or a P.O. Box.

## Q3. Your organisation's social media details



If your organisation has a website, Twitter or Facebook account we would like to be able to link to this from its entry in the Scottish Charity Register.

As well as providing more information to any member of the public who views your Register entry, your website or Facebook account can give us useful information on your organisation and the type of activities you are carrying out.

**Q2b. Withholding the principal office of the charity from the Scottish Charity Register**

If you consider that the address should not be shown on the Register, please explain why:

**Q3. Your organisation's social media details**

Website

Twitter

Facebook

## Q4. Replacing an existing charity with a SCIO



If the application is to replace an existing charity with a SCIO please read the 'Incorporation Guidance' on the OSCR website, [www.oscr.org.uk](http://www.oscr.org.uk).

We would like to know the proposed intentions of the existing charity, if this application to become a charity is successful. For example, will the existing charity be winding up and transferring assets to the new SCIO or carrying on in some other format.

**Please complete all the questions within Section 4 of the application form.**

## Q4. Replacing an existing charity with a SCIO

### Q4a. SCIO replacing an existing charity

Is the proposed charity being set up to replace an existing charity?

Yes  (if Yes please answer Q4b. and Q4c.)

No  (if No please proceed to Q5.)

### Q4b. Existing charity name and number

Charity name

Number

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### Q4c. Existing charity wind up

Will the existing charity wind up once all its assets have been transferred to the new SCIO?

Yes  (if Yes please proceed to Q5.)

No  (if No please answer Q4d.)

### Q4d. Please explain why the existing charity is not winding up?

## Q5. Members' names

Please enter the names of two or more individuals who are making the application for the incorporation of the SCIO. If the application is successful, these individuals will become the first members of the SCIO.

A SCIO must always have at least two members who may also be charity trustees.



## Q6. Charitable purposes

The purposes of your organisation are stated in your constitution; these may be referred to in various ways including purposes, objects or aims.

In completing this part of the form, you should consider the wording of your own purposes and tell us which of the charitable purposes set out in the 2005 Act they most closely relate to (the purposes of the 2005 Act are set out in full below).

There is no need to feel that you have to enter multiple charitable purposes in Question 6 – your organisation only needs to be carrying out one of the charitable purposes to meet the charity test. Please only select the charitable purpose(s) which most closely reflect what your organisation plans to achieve.

The charitable purposes set out in the 2005 Act are as follows:

<b>a</b>	The prevention or relief of poverty.	<b>j</b>	The advancement of human rights, conflict resolution or reconciliation.
<b>b</b>	The advancement of education.	<b>k</b>	The promotion of religious or racial harmony.
<b>c</b>	The advancement of religion.	<b>l</b>	The promotion of equality and diversity.
<b>d</b>	The advancement of health.	<b>m</b>	The advancement of environmental protection or improvement.
<b>e</b>	The saving of lives.	<b>n</b>	The relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage.
<b>f</b>	The advancement of citizenship or community development (including rural or urban regeneration).	<b>o</b>	The advancement of animal welfare.
<b>g</b>	The advancement of the arts, heritage, culture or science.	<b>p</b>	Any other purpose that may reasonably be regarded as analogous to any of the preceding purposes*.
<b>h</b>	The advancement of public participation in sport.		
<b>i</b>	The provision of recreational facilities, or the organisation of recreational activities with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended.		

\*If you enter (p) as your charitable purpose you will need to explain what your purpose is, which of the other charitable purposes from a) to o) it is analogous to and how.



**Q5. Members' names**

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**Q6. Charitable purposes\***

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## Q7. Providing benefit to the public

What you tell us about the activities of the SCIO should demonstrate how it intends to achieve its purposes as stated in its constitution and how it intends to provide public benefit. We need this information in as much detail as possible to establish how people will benefit from what it is you do or plan to do. If you do not give us this information, your application is likely to be delayed while we ask you to gather and provide more details of your activities.

If you have a business plan, or any other document which sets out your planned activities in detail, please send it in support of your application.

### Q7a. Main activities

Please tell us about the main activities you intend to carry out to achieve the purposes stated in your constitution.



We understand that your plans may not be finalised at this stage. If that is the case, you should indicate the types of activities your organisation will carry out, giving enough detail to enable us to assess whether it intends to provide public benefit.

### Q7b. Delivery of activities

Please tell us how you intend to carry out and deliver the proposed main activities of your organisation. For example, how often and where will the activities be carried out? Will your organisation work alone or in partnership with others?



### Q7c. Providing benefit to the public

To pass the charity test, your organisation must demonstrate that its activities provide benefit to the public in a way that furthers one or more charitable purposes.



Please explain how the activities your organisation intends to carry out will benefit the public.

### Q7d. Link between activities and purposes

Please tell us exactly how the activities you intend to carry out will achieve the purposes set out in your constitution.



When we make an assessment of whether an applicant intends to provide public benefit, there needs to be link between the benefit, the activities the organisation intends to carry out and its charitable purposes.

**Q7. Providing benefit to the public**

**Q7a. Main activities**

**Q7b. Delivery of activities**

**Q7c. Providing benefit to the public**

**Q7d. Link between activities and purposes**

Continue on a separate sheet if necessary.

## Q8. Private benefit

In assessing the public benefit an organisation intends to provide, we must look at how this compares to any benefit received by anyone (including the organisation's members) as a 'private' individual, rather than as a beneficiary of the charity. We refer to this type of benefit as 'private benefit'.

### Q8a. Payments to individuals (including charity trustees and connected persons)

Please tell us whether your organisation intends to make payment (other than out-of-pocket expenses) to any organisation or individual for providing services to it, including services provided as an employee. If so, please provide details of these payments. You should also tell us if any person will benefit from your organisation in any other way as a private individual or organisation.

In particular, please tell us whether the organisation intends to make payments to its charity trustees, or any person who is connected to a charity trustee (including any connected business or organisation). By 'charity trustee' we mean a person who is in general control and management of the administration of a charity (often referred to as management committee members, directors or trustees).

The 2005 Act states that a charity trustee (and anyone connected to a charity trustee) can only be remunerated by the charity if particular conditions are met. See our [Guidance for Charity Trustees](#) on remuneration.



### Q8b. Membership benefits

Please tell us whether your organisation intends to offer any benefits to its members that are not available to the general public and, if so, tell us what those benefits are.

For example, do you intend to offer your members reduced charges for your organisation's services? Can your members access additional services that are not available to the general public?



**Q8. Private benefit**

**Q8a. Payments to individuals (including charity trustees and connected persons)**

Individual	Amount	Notes
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**Q8b. Membership benefits**

Individual	Amount	Notes
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Continue on a separate sheet if necessary.

## Q9. Access to benefit

In assessing whether your organisation intends to provide public benefit, we must look at whether any conditions on accessing this benefit are 'unduly restrictive'. Most organisations that apply for charitable status do not intend to benefit the public as a whole, but rather a section of it. It is acceptable practice for organisations to put in place a limit on who will benefit from their activities but this limit cannot be unduly restrictive. Unduly restrictive conditions are those which are excessively restrictive, unreasonable, not justifiable or which contradict legal or moral standards.

### Q9a. Who can benefit?

Please tell us who can access the benefits you provide. If the services are not open to all members of the public, please tell us what section of the public you intend to benefit.

Please also tell us if a person has to be a member of your organisation to benefit from what it does and, if so, tell us how a person can become a member.



### Q9b. Fees and charges

If there are any fees or charges for the organisation's services, please tell us what these are and if they apply to all services. If they do not, please specify which services are subject to a fee.

If your organisation makes a charge for benefiting from what it does, we will consider the charge to be a restriction on access to the benefit. This is because it restricts access to those who can afford to pay the charge.

Again, we need to decide whether the charge amounts to an undue restriction. This is a complex area and if your organisation does charge for what it does, you should look at our full guidance, [Meeting the Charity Test](#), before completing this question.



### Q9c. Concessions

Please tell us about any concessions you offer to particular groups of people.



**Q9. Access to benefit**

**Q9a. Who can benefit?**

**Q9b. Fees and charges**

**Q9c. Concessions**

### Q9d. Membership fees

Please tell us if you charge a fee for becoming a member of your organisation and, if so, how much that fee is. Again, please tell us whether you offer concessions to particular groups of people.



### Q9e. Physical or practical restrictions

Please tell us whether there are any physical or practical restrictions to accessing the benefit your organisation will provide.

For example, will your organisation operate limited opening hours, or is there a lack of disabled access to the building where you will carry out your services?



### Q9f. Equalities (protected characteristics)

The Equality Act 2010 (the 2010 Act) aims to ensure that all people are treated fairly. In general terms, it prevents discrimination on the grounds of 'protected characteristics' as follows:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

However, part of the 2010 Act allows charities in certain circumstances to limit the group of people they help. More information on Equality law can be found in the '[Trustee Duties](#)' section of our website.

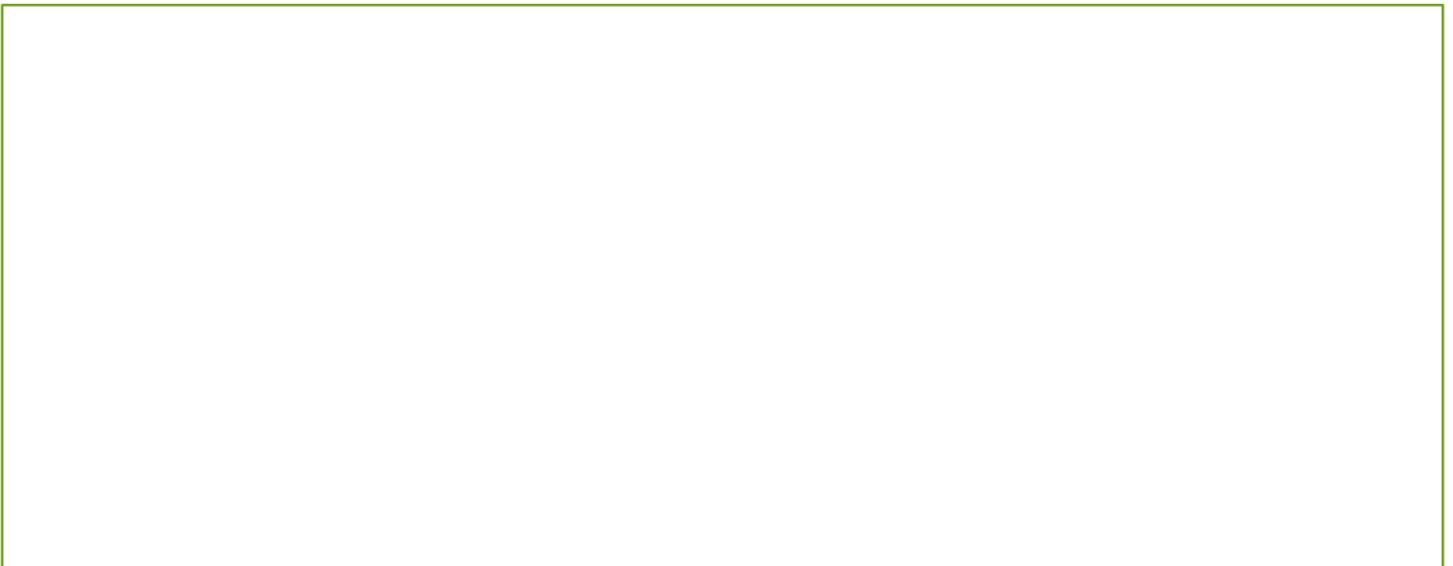
Please tell us whether the benefit your organisation intends to provide will be restricted to people who have any of the protected characteristics listed above and why it will be restricted in this way.



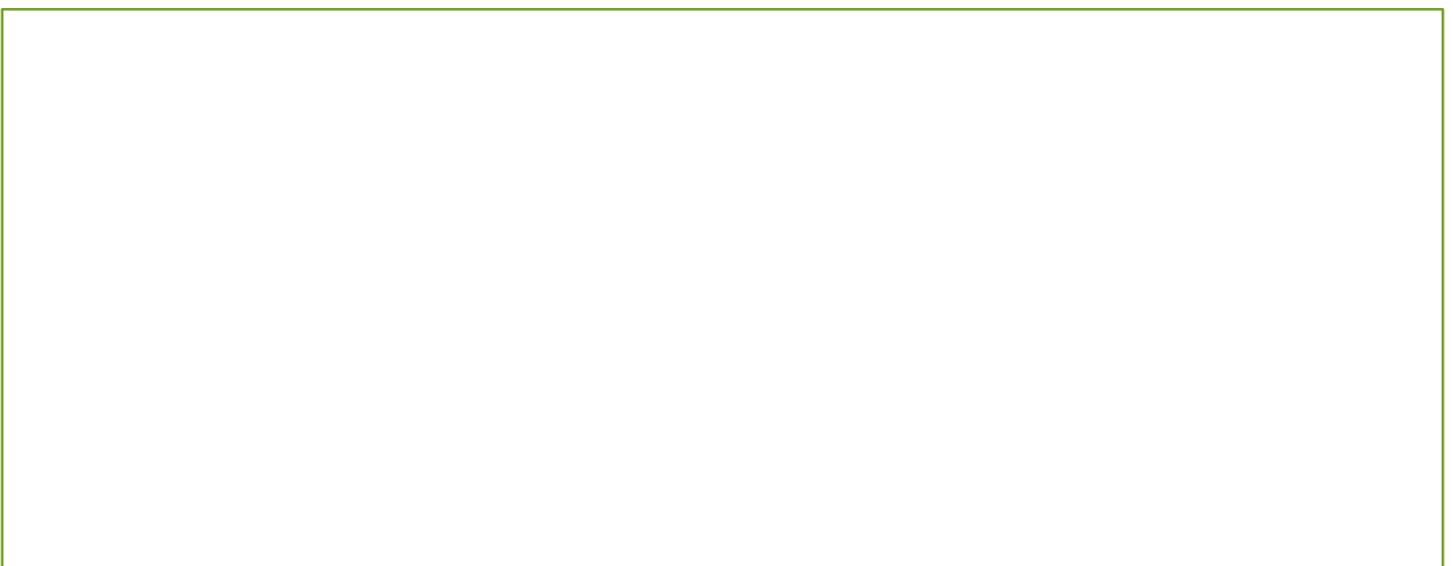
**Q9d. Membership fees**

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**Q9e. Physical or practical restrictions**

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**Q9f. Equalities (protected characteristics)**

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Continue on a separate sheet if necessary.

### **Q10. Activities: how does your organisation operate?**

In support of the information you have already provided about your activities, this information summarises the type of activity your organisation undertakes.



You must tick at least one box. We will use this information to help us compile statistics on Scottish charities.

### **Q11. Beneficiary groups: who does your organisation help?**

In support of the information you have already provided about your beneficiaries, this information summarises the groups within the community that your organisation aims to serve.



Please tick every group that your organisation exists specifically to benefit. If your organisation is set up for the benefit of the general public, rather than for any specific group of people, tick box f.

### **Q12. Geographical spread: where your organisation works**

In support of the information you have already provided about your activities, this information summarises the areas in which your organisation operates.



Please tick the box below that best describes how local or wide-spread the work of your organisation is, or best reflects the location of those who receive its grants.

**Q10. Activities: how does your organisation operate?\***

- a) It makes grants, donations, loans, gifts or pensions to individuals
- b) It makes grants, donations or gifts to organisations
- c) It carries out activities or services itself

**Q11. Beneficiary groups: who does your organisation help?\***

- a) Children or young people
- b) Older people
- c) People with disabilities or health problems
- d) People of a particular ethnic or racial origin
- e) Other defined groups
- f) No specific group, or for the benefit of the community
- g) Other charities or voluntary bodies

**Q12. Geographical spread: where your organisation works\***

- a) A specific local point, community or neighbourhood
- b) Wider, but within one local authority area
- c) More than one local authority area in Scotland
- d) One or a few bases or facilities servicing people who come from a broad area
- e) Operations cover all or most of Scotland
- f) Scotland and other parts of the UK
- g) UK and overseas
- h) Overseas only

## Q13. Connected bodies

Please tell us if your organisation will be part of a larger organisational structure. We will use this information for statistical and monitoring purposes.

### Q13a. Parent charity name

Please tell us the name of your parent charity (if applicable); it may be registered as a charity in Scotland or elsewhere.



### Q13b. Parent charity country of registration

Please tell us the country in which your parent charity is registered as a charity.



### Q13c. Parent charity registration number

Please tell us the charity registration number of your parent charity.



### Q13d. Other connected bodies

Please tell us if your organisation has links with or is connected to any other bodies or organisations. If so, please tell us the name and address of those bodies, and provide us with a brief summary of what they do.



**Q13. Connected bodies**

**Q13a. Parent charity name\***

**Q13b. Country of registration\***

**Q13c. Registration number\***

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**Q13d. Other connected bodies**

## Q14. Accounting reference date



The accounting reference date (ARD) is the date on which the financial year of an organisation ends. This date defines the period for which the organisation's accounts must be prepared.

For all new SCIOs, the first accounting reference date is automatically set as the first anniversary of the last day in the month in which the SCIO is incorporated.

For example:

If the SCIO was incorporated on 10 April 2012, its ARD would automatically be set at 30 April and the first accounts would cover a period from 10 April 2012 to 30 April 2013.

Alternatively, you may also choose a different ARD which better suits the way your SCIO intends to operate; this may be done either when you apply or after your SCIO is registered with OSCR.

If you intend to change your ARD after registration, you must tell us your proposed new ARD before you reach your current filing deadline for the Annual Return and accounts. In other words, you may not change your ARD if you are already overdue in filing these documents with OSCR.

Another point to note when considering a new ARD is how it will affect the length of your financial year. The Charities Accounts (Scotland) Regulations 2006 (as amended) do not permit charities in their first accounting period to prepare accounts for a period of less than 6 months. This means that the ARD you select may result in the first set of accounts for the SCIO covering a period of more than 12 months.

For example:

If the SCIO was incorporated on 10 April 2012 and the applicant had a preferred ARD of 30 June, it would not be possible for the first set of accounts to cover the period from 10 April 2012 to 30 June 2012 as this is less than 6 months. The first set of accounts for the SCIO would therefore cover 10 April 2012 to 30 June 2013.

**Q14. Accounting reference date (if applicable)\***

D	D
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M	M
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Y	Y	Y	Y
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## Q15. Signature and data protection statement

The application for the incorporation of a SCIO must be made by two or more individuals who will become the SCIO's first members if the application is successful.



One of these individuals must sign the application form and data protection statement on behalf of all of the applicants.

### Checklist

Have you:

- completed all the sections of the application form using the guidance notes?
- ensured you have a principal office in Scotland?
- ensured that your application has been made by at least two individuals?
- included trustee declaration forms fully completed and signed by all the proposed charity trustees of your organisation?
- included a copy of your proposed constitution? If this is a model constitution please state from which organisation it was obtained:
- ensured that your constitution includes the required elements as specified in the guidance notes?
- included supporting information about your activities?  
For example, a business plan or a copy of a funding application.
- included copy of permission from Companies House to use SCIO name (if applicable)?

Please send the completed form and all documents to:

OSCR, 2nd Floor, Quadrant House, 9 Riverside Drive, Dundee, DD1 4NY.

We will acknowledge your application when we receive it.

## Q15. Signature and data protection statement

### Data protection

OSCR is a registered data controller in terms of the Data Protection Act 1998. Any information you give us will be held securely and in accordance with the rules on data protection. OSCR processes information only in accordance with its statutory regulatory functions under the Charities and Trustee Investment (Scotland) Act 2005, and to inform research into the charity sector in Scotland. Information may be shared with other regulatory bodies including HMRC, and selected information will appear on the Scottish Charity Register. Further information about data protection is available on the OSCR website.

### Declaration

**You may be committing an offence if you give an answer that you know is untrue or misleading.**

I certify that the information entered in this form is correct to the best of my knowledge.

I confirm that the information entered has been approved by the charity trustees and I am authorised to submit this information.

We, the prospective members named at section 5, apply hereby for the constitution of the above named SCIO, and certify that the information given in the attached form is correct to the best of our knowledge.

Signed by one of the applicants on behalf of all

Print name

Date

D	D	M	M	Y	Y	Y	Y
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