

## Building your board and governance required

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@socentraveller

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### The Plan

- ▶ Introductions and expectations
- ▶ Engaging with professional advisors
- ▶ Foundations for governance
- ▶ Incorporation & Company Articles
- ▶ Good board practice
- ▶ Recruiting a board

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### Introductions & expectations

- ▶ No more than 30 seconds
  - ▶ Your name
  - ▶ Your venture's name
  - ▶ Your venture's social aim
  - ▶ One key question you want answered today

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## Housekeeping

- ▶ Fire escapes, alarms, loos, breaks
- ▶ No recording
- ▶ Mobile Phones - mute or get ready to boogie
- ▶ Rules for social media
- ▶ No stupid question
- ▶ **CTR** No question is stupid

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## Chatham House Rule

- ▶ When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

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## Engaging with professional advisors

All advisors, including myself have inherent biases based on experience and knowledge.  
 Not all lawyers understand all legal structures and not all accountants understand all areas of tax and accounting.  
 Not many professional advisors will admit the boundaries of their knowledge.  
 This workshop has been compiled to provide you with as much information as possible to make key decisions for your business AND (much more importantly) feel confident enough to ask questions of all advisors until you understand.  
 The law can be understood and its efficient use is key for the growth of your business.

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## Entrepreneurs' Multiple Roles

- ▶ Owner
- ▶ Director
- ▶ Employee
- ▶ Volunteer
- ▶ Beneficiary
- ▶ Funder

**You do it all**

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## Key business areas and related roles

- ▶ Ownership
  - ▶ owners and some investors
- ▶ Strategic Directions
  - ▶ directors
- ▶ Operations
  - ▶ employees, some volunteers, some funders
- ▶ Impact
  - ▶ some volunteers, some beneficiaries

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## Organisational Parts



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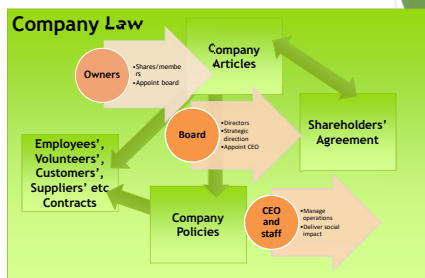
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### Further control mechanisms



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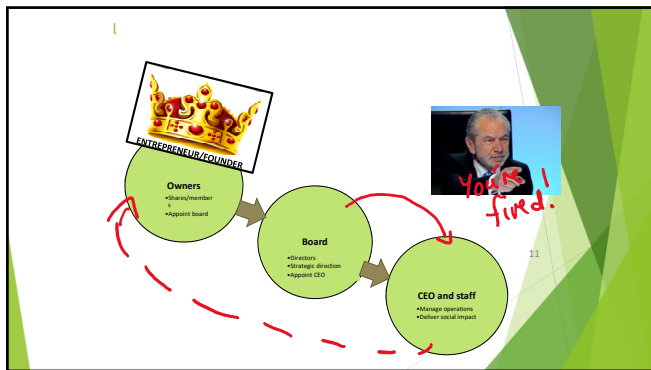
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### Incorporation

- ▶ Company Law creates a separate legal entity from you
  - ▶ Risk management
  - ▶ Legacy creation



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### These are irreversible decisions

- ▶ Members or shares as ownership model
- ▶ You cannot convert from a CLG to a CLS or vice versa
- ▶ You cannot “un-CIC”, “un-Charity”, “un-CIO” or “un-BenCom”
- ▶ So take your time ...
- ▶ Create the right DNA for your organisation



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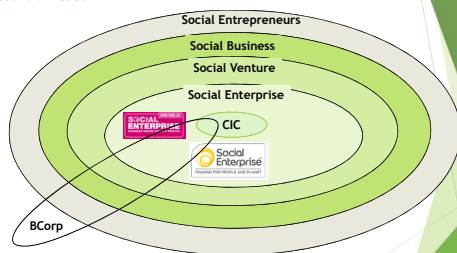
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### Social What?



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### CLS social enterprises

- ▶ CIC CLS - permanent social lock
- ▶ CLS with social clauses and asset locks in Articles
  - ▶ Required by SEUK, Social Enterprise Mark, BCorp and some funders/investors
  - ▶ Locked by 75% or more shareholder majority for changes or Golden Share
- ▶ Consider these options to both express and protect your social mission

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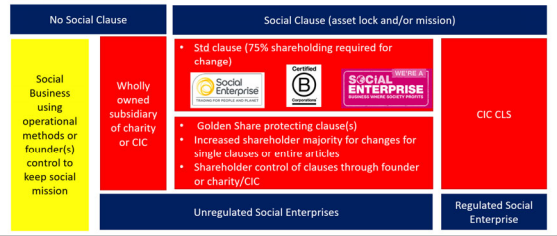
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## Companies limited by shares Social Enterprises

### Choices for companies limited by shares wishing to demonstrate their social mission



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## Social Badges

- ▶ Used because "social enterprise" is not a legal term
  - ▶ Government has created term "regulated social enterprises for SISR" - CICs, CIO (SCIO), Charities, BenComs
  - ▶ Choose badge to match your aims, organisational impact you want and industry
- ▶ CIC - Permanent social & asset lock, Annual reporting (next slide)
- ▶ Social Enterprise Mark
- ▶ Social Enterprise UK membership
- ▶ Bcorp
- ▶ Fair Trade
- ▶ ISO 9000

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## Key terms

- ▶ Membership
- ▶ Subscribers
- ▶ Shareholders
- ▶ Directors (NED etc)
- ▶ Advisors
- ▶ Trustees
- ▶ Shadow directors
- ▶ Observers
- ▶ Persons with Significant Control
- ▶ Boards (directors, advisory, user panels)

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### Key definitions - Shares etc

- ▶ Ownership of company limited by shares (CLS) and some other models is through shares
- ▶ People or organisations which own shares are called shareholders
  - ▶ Sometimes called subscribers (eg: in company setup, paperwork and Memorandum)
- ▶ Shares - their rights and classes are defined through the Company Articles (based on Company Law)
- ▶ Shares have three main rights which can be varied eg: dividends, voting at general meetings, electing directors
- ▶ Different rights can be given eg: Golden Share owning social clause and asset lock and not having voting rights or right to dividends
- ▶ Shareholders can receive a percentage of annual profits (dividends) if board agreed to allocate these
- ▶ Share classes can be created within Company Articles
- ▶ Power for shareholders depends on percentage of shares owned (unless in BenCom - community shares)
- ▶ Shares can be sold (profit vs face value)
- ▶ Shares can dissolve/vest and do lots of other things too
- ▶ Earning shares by work is sometimes called "sweat equity"

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### Key definitions - Members

- ▶ Ownership of Companies limited by Guarantee (and some other models) is through membership
- ▶ Do not confuse membership as company owners with members of the organisation/group the company supports (they can be the same but don't have to be)
- ▶ Members are always equal in power - one member one vote
- ▶ Members can be people or organisations
- ▶ Membership can be limited to types of people or organisations (geography/age/disability/other)
- ▶ Members cannot get dividends
- ▶ Membership cannot be sold
- ▶ Members elect directors/trustees and vote at general meetings

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### Key definitions - Boards etc

- ▶ The Board is the collection of directors/trustees.
- ▶ Elected by members or shareholders
- ▶ Legally responsible for company being sustainable and listed with Companies House
- ▶ Appoint CEO or MD
- ▶ Directors of charities/CIOs are sometimes called trustees
- ▶ NED/Non Executive Director - not a legal term all directors have equal responsibilities for company and registered at Companies House (in practice some directors work in the business and some are only involved in the board)
- ▶ Advisory boards - these are usually just advisors and have no legal role or responsibility for the company
- ▶ Charity directors (sometimes called trustees) cannot be paid and therefore do not usually include CEO/MD
  - ▶ Unitary board - board of charity with some directors being paid employees as well as directors
- ▶ Use Directors Service Agreements/Board Packs (IOD.com)

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### More definitions - check your Articles

- ▶ Nominal value
- ▶ Quorum
- ▶ Casting vote
- ▶ Minimum and maximum numbers
- ▶ Objects
- ▶ Roles and responsibilities
- ▶ How meet? Include video conferencing?

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### BREAK

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### Board essentials

- ▶ Why have a board?
  - ▶ Support growth
  - ▶ Funders expect it
  - ▶ Investors expect it
  - ▶ Big customers expect it
  - ▶ Support you to build the business
  - ▶ Skip level reporting - good and bad
- ▶ Need to be managed
  - ▶ Carefully because you are equal to them on board
  - ▶ Founder cannot be chair
- ▶ Founders and NEDs need to know when to walk away
- ▶ Directors insurance

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### Key principles for directors

- ▶ Accountability
- ▶ Transparency
- ▶ Probity
- ▶ Focus on sustainability - profit and impact
- ▶ Longer term success of company

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### Key themes for boards

- ▶ Building trust in the business
- ▶ Board culture
  - ▶ Unconscious bias
- ▶ Bribery and corruption
- ▶ Ethics and values
- ▶ Sustainability
- ▶ Board effectiveness
  - ▶ Evaluation
  - ▶ Training
  - ▶ diversity

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### Directors' duties

- ▶ Duty of confidentiality
- ▶ Duty to devote time and attention to the business and their role
- ▶ Duty to account to shareholders
- ▶ Stewardship of company assets
- ▶ Stewardship of company impact and legacy
- ▶ General duty to act in good faith
- ▶ Duty to maintain book of accounts
- ▶ Duty to file accounts, annual returns and tax returns on time
- ▶ Duty to maintain statutory books
- ▶ Duty to ensure company complies with legislation

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### Executive vs Non-Executive Directors

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|-----------------------|---------------------------|
| ▶ Executive Directors | ▶ Non-Executive Directors |
| ▶ Hands on            | ▶ Hands off               |
| ▶ Not independent     | ▶ Independent             |
| ▶ Full time           | ▶ Part time               |
| ▶ Employed            | ▶ Self employed           |
| ▶ Strategist          | ▶ Policeman               |
| ▶ Internal knowledge  | ▶ External knowledge      |

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### Directors should have ...

- ▶ Broad business experience
- ▶ Ability to assess people and situations analytically
- ▶ Ability to both hold their ground and persuade others
- ▶ Financial literacy and experience
- ▶ Awareness of legal environment and duties of directors and company
- ▶ Familiarity with best board practice (and relevance to SME / social enterprise)
- ▶ Ability to act as sounding board
- ▶ Sense of humour
- ▶ H
- ▶ umility

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### Non Executive Directors are not

- ▶ Advisers
  - ▶ They advise, directors decide
  - ▶ They are not responsible for the business
- ▶ Mentors
  - ▶ NEDs are not as close to individuals in the business as mentors are
  - ▶ NEDs need to be independent

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## Board meetings

- ▶ Read your Articles
- ▶ Agenda
  - ▶ Sign off previous minutes
  - ▶ Matters arising from previous minutes
  - ▶ Company reports - include financial, impact and other key areas
  - ▶ Any other business
- ▶ Minutes
  - ▶ Include actions and deadlines (use footnotes )
  - ▶ How detailed?
  - ▶ Who takes them?
- ▶ Resolutions - written vs special
- ▶ Chair and casting vote

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## BREAK

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## Policies and paperwork

- ▶ Recruitment policy for board (example shared)
- ▶ Conflict of interest policy and register (example shared)
- ▶ Expenses policy for Directors and form for claiming
- ▶ Diversity policy for recruiting directors
- ▶ Board skills Audit (example shared)
- ▶ Job Description (example shared)
- ▶ Code of conduct (example shared)

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### Working through paperwork - Advert

- ▶ Small advert for putting online (your website or another organisations) or print if you wish.
- ▶ Purpose: to provide basic information on the recruitment requirement and a link for the Job Pack to be downloaded.
- ▶ This should ideally contain the following information:
  - ▶ Logo and as much branding as possible
  - ▶ Company name in full with website and social media details
- ▶ Paragraph of text similar to:  
We are looking to recruit a number of Non Exec Directors to the board of our social enterprise to support the next exciting stage of our business.  
We particularly want individuals with the following skills and experience to apply: xxx
- ▶ We are committed to diversity on our board and welcome applications from any individual who meets the job description and is interested in joining our organisation.
- ▶ Download our job pack here - weblink to single pdf document containing:
  - ▶ Cover Sheet (branded with company name and NED Recruitment Job Pack or similar title)
  - ▶ Summary Sheet (as below)
  - ▶ Job Description
  - ▶ NED Code of Conduct
- ▶ For more information the current NED managing recruitment: email

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### Working through paperwork - Summary Sheet

- ▶ This is the main cover sheet for the Job Pack and should have a series of paragraphs with the following type of information (personalised as appropriately to your organisation and its stage of development):
- ▶ Introduction to the company and its business now
- ▶ Historic highlights including some key numbers to reflect growth hopefully including impact too
- ▶ Future aims to inspire the new NEDs to join
- ▶ Brief description of what you are looking for in skills and experience
- ▶ Application process including:
  - ▶ More information or discussion contact current NED managing recruitment:
  - ▶ Send your application containing a CV and a cover letter with your reasons for wanting to join the company's board and how your skills and experience meet the requirements expressed in this pack to current NED managing recruitment:
  - ▶ Applications close midnight on date
  - ▶ Invitations for interview sent by date
  - ▶ Interviews in venue on dates (give choice)
  - ▶ First board meeting and induction where and when

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### Working through paperwork

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QUESTIONS

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