

Healthwatch Oxfordshire Board of Directors

Date of Meeting: 27 th September 2016	Paper No: 3
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Title of Presentation: Charity Conversion Update
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This paper is for	Discussion		Decision		Information	x
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Purpose and Executive Summary (if paper longer than 3 pages): Please click the icon to access the document
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Financial Implications of Paper:

Action Required: The Board is asked to: 1) Note the contents of this paper. 2) Complete the form at <i>appendix 2</i>

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1.0 Charity Conversion

The Healthwatch Oxfordshire board agreed formally to convert to a charity at its meeting in May 2016. Following this decision Tessa Hennessy, a local solicitor engaged by HWO wrote to the Charity Commission asking them to issue a statement consenting to the conversion of Healthwatch Oxfordshire CIC to a charity.

1.1 Conversion Update

The Charity Commission have responded requesting further information on the activities of Healthwatch Oxfordshire CIC (HWO) and the beneficiaries and geographical boundaries that HWO will operate within. The Charity Commission have also requested a copy of the special resolution which will need to be passed by the HWO Board in order to finalise the conversion. A copy of the proposed draft resolution can be found at *appendix 1*. The information as requested has been supplied to the Charity Commission and a response is awaited.

1.2 Next steps

The Charity Commission guidance states that it will be necessary to apply to register the new charity, following the registration of the company changes with Companies House. This will involve completion of the online application form and submission of supporting documentation including copies of the latest company accounts and a signed trustee declaration form. All the current directors will need to sign this.

This document will be circulated in hard copy at the next board meeting in anticipation of HWO making the Charity Commission application later this year. The application form also asks for personal information about the trustees which will need to be provided to the Charity Commission and this form can be found at *appendix 2*.

THE COMPANIES ACT 2006

SPECIAL RESOLUTION

To convert from a community interest company to a charitable company

Part A

Company name: Healthwatch Oxfordshire CIC

Company number: 08758793

Company type: Company limited by guarantee

At a general meeting of the above company, duly convened and held at:
insert address

On the following date: insert date

The following three resolutions listed in Part B were passed as special resolutions:

Part B

RESOLUTION

- (1) The company name shall be changed to:

Healthwatch Oxfordshire
- (2) That the clause containing the following wording shall be deleted from the company's memorandum or articles of association:

"The company shall be a community interest company."
- (3) The articles of association shall be altered so as to comply with requirements in connection with becoming a charitable company. The articles of association shall be altered so as to take the form of the articles of association attached to this resolution which shall be in substitution for, and to the exclusion of, any articles of association of the company previously registered with the Registrar of Companies.

.....
Chairman

.....
Date

NOTES

- (1) On the formalities required when a CIC becomes a charitable company, see generally section 53 to 55 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 and Chapters 10.2 of the Regulator's guidance notes (available from the website www.cicregulator.gov.uk).
- (2) You will need to satisfy the Charity Commission that your company's constitution fulfils the requirements of charity law, particularly with regard to the statement of its objects which appears in its memorandum. Section 54(7) requires a statement from the Charity Commissioners that in their opinion, if the special resolutions take effect and the company ceases to be a community interest company the company will be an English charity and not an exempt charity. Or a statement by the Scottish Charity Regulator that, if the special resolutions take effect and the company ceases to be a community interest company, the company will be entered on the Scottish Charity Register"
- (3) This precedent is drafted as a certificate of passing of the special resolutions which a company must pass as part of the process of becoming a CIC. It is a document to be signed by the chairman of the general meeting at which the special resolutions are passed, certifying that the meeting was duly convened and the resolutions duly passed. As such it is the sort of document which should be forwarded to Companies House to show that the resolutions have been passed as required.
- (4) You may wish to replace your existing articles with something more closely based on one of the precedents published by the Charity Commission (see <http://www.charity-commission.gov.uk/registration/mgds.asp>).
- (5) Section 32 obliges every CIC to include in its articles a statement that it is to be a CIC. Section 37(1)(c) and section 33 of the Act oblige companies converting to become CICs to change their names to include one of the prescribed CIC corporate designations rather than "limited" or "plc". When a company ceases to be a CIC, it must remove this statement from its articles and adopt a name which does not include a CIC designation.
- (6) Broadly speaking, any provision of the company's memorandum and articles can be changed by special resolution or a notice of a change of name by resolution, as appropriate. However, there are certain exceptions to this:
 - (i) the clause in the articles which specifies whether the company's registered office is to be located in England and Wales, Wales or Scotland; and
 - (ii) any clause which the articles state is unalterable, or can only be altered by some procedure more onerous than the passing of a special resolution.

Furthermore, if you wish to alter the statement of the company's objects in its articles once it has become a charity, you will need the prior written consent of the Charity Commission.
- (7) With the exception of the statement of CIC status, the precedent assumes that, rather than setting out each change introduced in the articles, as a result of the conversion under sections 53 to 55, the resolution will simply substitute a complete new form of articles which includes all the changes. If, instead, you wish to introduce all the changes piecemeal, you will need to add resolutions to that effect. But in any event, you must file a consolidated text of the articles as altered by any special resolution: it is an offence not to do so (see section 34 of the Companies Act 2006).

Trustee information required by Charity Commission

The Charity Commission requires the following details for each trustee/director of the organisation.

- Title/honours/qualifications -
- First name(s) -
- Middle name (s) -
- Last name -
- Preferred name (if any) - this will be how the trustee's name appears on the public register, e.g. Jo Brown.
- Names (first and surnames) previously used -
- Whether the trustee is trustee of another registered charity and if so, the charity's name and registered number
- Whether the trustee is chair of trustees
- Whether there are any special circumstances requiring the trustee's name to be kept off the public register of charities