Healthwatch Oxfordshire Board of Directors

Date of Meeting: 23rd March 2015	Paper No: 7

Title of Presentation: Proposed Change to Company Structure

This paper is for	Discussion		Decision	x	Information	

Purpose and Executive Summary (if paper longer than 3 pages):

This paper proposes that Healthwatch Oxfordshire explore changing its legal form from a small form CIC (Community Interest Company) to a Charitably Incorporated Organisation.

Financial Implications of Paper: If agreed this proposal could save HWO an estimated £3,000 per year and remove the financial risk associated with discretionary business rate relief which is currently worth about £4,800 per year. An allowance for one off costs associated with converting to a Charity has been made in the draft 15/16 budget.

Action Required:

The Board is asked to approve the proposal to explore changing the legal form of the company, and to set up a short life sub group of the Board to oversee this work.

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1. Introduction

1.1 Healthwatch Oxfordshire is currently constituted as a small form Community Interest Company, but consideration should now be given as to whether this is the most appropriate legal form for us in the long term, or whether there would be benefits in converting to a Charitable Incorporated Organisation.

1.2 This paper sets out the key differences between the two organisational forms, and the pros and cons of each.

1.3 It asks the Board of Healthwatch Oxfordshire to agree to set up a short life project group to consider this issue in detail, to bring a detailed recommendation back to the Board and then to oversee implementation of any full Board decision.

2. Characteristics of the 2 organisational forms

2.1 Small form Community Interest Company

Pros	**Cons**
Can sell goods and services like any other business	Surplus at year end subject to corporation tax @20%
Requires only normal company accounts as opposed to external examination	Cannot easily apply for grants from other charities
Directors' liability is limited by guarantee	Business rate exemption is discretionary
Returns only required to Companies House	No benefit from discounts provided to Charities (eg cost of operating Microsoft 365)
Directors can be paid, but profits and assets must be used for community interest not distributed as profit to benefit individuals	
No Trustees and no trustee control (so good vehicle for small organisation/sole trader wishing to trade as not for profit)	
The only members are Directors and all Directors are members	
No requirement to hold an AGM	

2.2 CIO (Charitable Incorporated Organisation)

Pros	Cons
Surplus at year end not subject to corporation tax	Not permitted to "permanently trade"
Can apply for grants from other charities	Requires external examination of accounts prepared on the accruals basis by a member of a body specified in the Charities Act 2006
Directors' liability is limited by guarantee (and Directors are also registered as Trustees)	Directors are also Trustees and so cannot be paid
One set of returns to companies house and Charity Commission now possible	Must have an AGM
Profits and assets must be used for charitable purpose not distributed as profit to benefit individuals	
Can be established so the only members are Trustees and all Trustees are members	
Business rate exemption is mandatory	
Benefits from discounts provided to Charities (e.g. cost of operating Microsoft 365)	

3. Financial implications for HWO

3.1 We have negotiated discretionary rate relief from the City Council on our premises, and this is currently saving us approximately £400/month. We have no protection against this decision being revoked in the future, so this is a risk of some £4,800 that would disappear if we became a charity.

3.2 We are likely to end the year with a corporation tax liability of at least £3,000 this year, and if we operate with a planned contingency of £10-15000, then something of this order will be a recurring annual cost.

3.3 Our Microsoft 365 operating costs are about £800/year and would be virtually free if we were a charity – which would allow us to afford for all Directors to have a HWO email address.

3.4 Preparation of year end accounts can currently be undertaken by SPX within the agreed monthly fee of £350/month for financial admin services, this year with a one off payment of £250 to Wenn Townsend (Accountants) for corporation tax advice. We would probably have to pay around £750 a year for the year end scrutiny we would require as a Charity.

3.5 If we converted to a Charity we would need to budget for and run an AGM.

3.6 If we converted to a charity we could seek donations from other charities, the lottery etc in support of our work.

3.7 There may be legal costs associated with the conversion and one off print costs for adding a charity number to all generic leaflets etc.

3.8 If we converted to a charity we would need to understand the implications for our ability to charge for services - and if earned income became a substantial part of our operating model in the future, then we would need to consider setting up a wholly owned trading subsidiary that covenants all surplus back into the parent charity.

3.9 As a Charitable Incorporated Organisation, Board members would need to be registered as both Company Directors (as at present), and Charitable Trustees, and to behave in accordance with the expectations of both roles. In practice good governance behaviours in both roles are the same and this will not create any extra responsibilities.

4. Recommended next steps

4.1 On the basis of this quick initial analysis, it looks as if conversion to a Charity could save us around £3,000 a year in cash and reduce our risk by a further £4,800, after taking into account associated recurring additional costs.

The Board is therefore asked to set up a short life sub group to:

- **Undertake a more detailed options appraisal of organisational forms for HWO**
- **Make a formal recommendation to the Board**
- **Oversee the conversion to a CIO, if that is approved.**