

Resolution for Alyth to become an incorporated entity
FREQUENTLY ASKED QUESTIONS:

What does it mean to “become an incorporated entity ie: a company limited by guarantee”?

A “company limited by guarantee” is a distinct legal entity from its owners. It is most often used by non-profit organisations such as charities, community projects, clubs and societies that require legal personality. A **company limited by guarantee** does not usually have a share capital or shareholders.

Why does Alyth need to be an incorporated entity?

Alyth is a registered charity, constituted by a Deed of Trust dated 23 February 1966 and registered with the Charity Commission [charity number 247081]. The charity trustees are responsible for the management of the affairs of the synagogue as set out in the Constitution, that was adopted in 2006.

The increase in scale of Alyth’s financial transactions requires a more rigorous legal and financial framework in which to operate. This, together with the scope and nature of the building development and a potential investment of £4.5m in a new building, requires us to provide greater protection for trustees from personal liability under the synagogue’s contractual obligations.

Are other Synagogues incorporated entities?

Yes, almost all the synagogues in Reform and Liberal Movements are incorporated entities, including similar sized communities such as the newly merged Edgware-Hendon community, West London Synagogue, Finchley Reform Synagogue, The Liberal Jewish Synagogue, Northwood and Pinner Liberal Synagogue and New North London Synagogue (affiliated to the Masorti Movement). The majority of not-for-profit companies and incorporated social enterprises in the UK are limited by guarantee.

What is the cost of incorporation?

There are costs associated with being a company rather than an unincorporated entity, which Alyth currently is. The cost of professional fees required to draft governing documents and to implement the processes associated with transfers and registrations, are estimated to be around £5,000. Council and Executive agreed that these costs are necessary to ensure that all the legal requirements are met and that the transition is as smooth as possible. Once registered as a company, there are the minor administrative costs of registration and an annual filing fee.

What else will this process involve?

The process of drawing up new Memorandum and Articles of Association required to be a company limited by guarantee will ensure that we have governing documents that are updated to reflect needed amendments to the current Constitution. It also enables us to consider and implement the recommendations of the Governance Group as set out in the paper presented to Executive and Council. The document is available online at www.alyth.org.uk/agm.

More about “companies limited by guarantee”

What is limited liability?

If a charity, community project, club, etc. is not registered as a limited company, then the people running it (typically the trustees or a similar body) can be held personally liable for its unpaid debts. With a company, on the other hand, the company itself is a separate legal entity and **it**, not the trustees are liable for its debts. In a company limited by guarantee, the people running the company (the directors) will only incur any personal liability for the company’s debts if they have been guilty of some wrongdoing, or have acted negligently.

What are the key characteristics of a company limited by guarantee?

- i. A company limited by guarantee is registered at Companies House and must register its accounts and an annual return each year, and has directors. As the company is also a charity, the Trustees Report and Statutory Accounts are also registered with the Charity Commission.
- ii. A company limited by guarantee, does not have shareholders. Instead the company must have one or more guarantors who are also referred to as 'members'. The 'members' of the company are bound by a guarantee in the company's articles of association, which requires them to pay the company's debts up to a fixed sum - usually £1.
- iii. A company limited by guarantee must have 'directors', who run the regular business operations of the organisation. It is usual for guarantors to be directors. Their powers will depend on the terms of that particular company's articles, but typically they are given wide powers of management.
- iv. The directors act both as charity trustees under charity law and as directors under company law. They are required to act in the best interest of the company at all times.

What are the governing documents of the incorporated entity?

Both a **memorandum of association** and **articles of association** are required for a company formed in the UK. The memorandum of association is the document that sets up the company and the articles of association set out how the company is run, governed and owned.

What are the next steps?

MAY 2018	AGM: Approval for Alyth to Incorporate and for the Governance Group to draft governing documents.
MAY-JULY	Governance Group preparatory work on drawing up Memorandum and Articles of Association. These governing documents would replace the current constitution.
JULY-SEPT	Soundings from the community on a proposed structure and working of the model of governance.
OCTOBER	Governance Group works with appointed legal team to finalise governing documents for presentation to Executive (Trustees), and recommendation to Council in November 2018.
DECEMBER	ABGM: Resolution to adopt new governing documents and agreement from members for the transfer of assets and liabilities of Alyth to the new charitable company and the dissolution of the unincorporated entity.
JANUARY 2019	Registration of new company at Companies House and appointment of Directors, who are also trustees of the new company limited by guarantee.
JANUARY	Application for charity status for the new entity from the Charity Commission.
	Transfer of all assets and liabilities to the new company at a set date.
JANUARY	Inform the community, stakeholders, suppliers, employees of change of legal entity.