

The case for a change to the LRAs structure

Currently the LRA is an unincorporated association run in accordance with its written constitution. This structure gives rise to a number of disadvantages compared with other structures available.

1-Because it is unincorporated, it is not a legal entity and, as a result, it cannot enter into contracts. One or more of the members must do this on the LRAs behalf.

2-Because its constitution does not indemnify its executive members against actions that may be brought against them, if any third party were to sue an executive he/she would have to defend himself/herself and meet any costs and penalties that may result.

3-Because unincorporated bodies cannot have limited liability, were the LRA to be wound up in debt or sued, once its own resources had been extinguished all members(both executive and general) would be capable of being pursued by the claimant. As the LRA has very little in the way of capital reserves, members would be at risk straight away.

The LRA has reduced this risk by taking out Public Liability Insurance, but the sum insured for is not great by public liability standards and, thus far, the LRA has not taken out Directors and Officers insurance, which protects the executive against actions brought against them for matters such as libel etc.

In an increasingly litigious world, where any legal procedures are extremely expensive and where solicitors are prepared to work on a “no win-no fee” basis, it is suggested that the current structure leaves the LRA itself, the members and particularly the executive exposed to unnecessary risk (it should be noted that even if a claimant has a very weak or no case at all, it can cost a great deal to defend an action). The fact that there has not been an issue thus far does not mean that there will not be in the future.

All these disadvantages can be removed if the LRA were to adopt a limited liability, incorporated structure. The incorporation means that the LRA is a legal entity and can enter into contracts itself. The constitution would provide that the executive members are indemnified for all but reckless or illegal statements/actions. The limited liability would mean that the members only financial exposure would be nominal (anything from £1-10)

There appear to be two options for conversion. One is to a Charitable Incorporated Organisation and one is to a company limited by guarantee. Neither is complex or expensive to convert to. Similarly, once converted, neither is much more expensive or complex to run on an ongoing basis. Many organisations similar to the LRA appear to be adopting these structures for the same reasons as outlined above.

It should be noted that the change in structure does not remove the advisability of insurance (certainly public liability and also, probably, directors and officers) if only because the LRA has no capital with which to defend itself if necessary, but it does offer all concerned an additional level of protection for very little in the way of either effort or cost.

A decision needs to be made by the executive as to whether to pursue a restructuring. Thereafter, if approved, the best option needs to be researched and agreed. After that, a fully worked up proposal needs to be put to the full membership at an EGM for their approval or otherwise.