

# Incorporation for RFCs – How Farrer & Co can help

## 1. Why incorporate?

The RFU encourages clubs to incorporate and has produced materials to assist RFCs to achieve this. The reasons for incorporation are set out in detail in the RFU documents but the two key benefits are:

- Limited Liability – the liability of an incorporated club extends only so far as the Club's assets and the guarantees given and no further.
- Separate Legal Personality - the club becomes a legal entity in its own right. This means it can sue and be sued (rather than the committee members being sued on behalf of the club), hold property in its own name (rather than through trustees) and employ people, enter contracts and generally run its operations in its own name.

These benefits together mean that in the event of a claim (unless the committee was reckless or negligent) the claim would be brought against the club rather than the committee and the liability of committee members limited to a nominal sum.

## 2. What are our options?

Again, the RFU has published detailed guidance on this but essentially rugby football clubs are best constituted as either a company limited by guarantee or (where advantageous from a tax perspective) an industrial and provident society ("IPS").

## 3. How can Farrers help our club?

The RFU has been very proactive in respect of assisting its clubs to incorporate and asked Farrers to produce a pack of the documents necessary to incorporate. These documents reflect all recent changes to legislation including the new Companies Act and are available at [rfu.com](http://rfu.com).

The documents are designed to make the process of incorporation as straightforward as possible for clubs by providing templates of all the documents a club should need to incorporate. They can be readily adapted to suit individual clubs. We have produced these to help you through the process and would suggest that the least expensive manner of incorporating would be to ask a legally trained trustee/director to work through this pack for your club.

Having said that, incorporation is a legal process involving the transfer of the assets and undertaking of the unincorporated club to a new entity set up to take over the club's business. If you felt that you needed more tailored advice, or that your club had specific questions that you didn't feel were covered, we would be happy to work with you. We understand the issues that you have to juggle regarding advice and are flexible in how we could assist you - be that comprehensive advice or merely some handholding to work through the RFU templates.

- We can offer advice on the decision of whether to incorporate as a company limited by guarantee or an IPS and registering as a CASC or preserving the club's CASC status through the incorporation process. We have a dedicated team of tax specialists but are equally happy for you to take tax advice from your accountants and limit our advice to the review of the constitutional documents where you feel that this will be more cost effective for you.

- Where you decide to incorporate as a company, you can either use the guidance notes that we have prepared to draft the constitutional documents yourselves (Memorandum of Association, Articles of Association, Rules), asking us to check them for you, or ask us to draft the documents for you in light of your instructions.
- Similarly, we can either draft the tax clearance letters, Companies House filings, documents relating to the transfer of the club's assets into the name of the new company and minutes for your first meeting of the Board etc or review your drafts for you.
- If you decide to incorporate as an IPS, we can advise on the extent to which you can revise the model rules approved by the Financial Services Authority and again either draft the changes for you or review your draft document and either simply give guidance on the filings process or carry this out for you.

#### 4. Why choose Farrers?

Farrers is highly regarded in the Sports sector, particularly in relation to its regulatory and constitutional advice. We act for many of the National Governing Bodies and frequently advise clubs and other sports organisations on incorporation and constitutional issues.

Specifically in the rugby football world, we have worked closely with the RFU by producing the template documents for company incorporations and are very familiar with the constitution of the RFU, its CBs and Clubs. Having drafted the template documents (and advised rugby football clubs wishing to incorporate) we are very familiar with the drafting and issues for consideration at incorporation, which further helps to streamline the process and minimise your legal costs.

*Chambers legal Directory 2008 records our team as being described as "Knowledgeable, responsive and easy to deal with - they understand what we need and don't over-lawyer a case."*

#### 5. What are the costs of incorporating?

As we have highlighted in Section 3, we are happy to be flexible in relation to the scope of our role and the precedent documents have been designed specifically to help to keep your legal costs down and we would encourage you to review the documentation pack and ascertain what would be the best approach for your own club.

If you felt you wanted additional support from us and took the most common approach of asking us to draft the documents for you but did not require any substantive changes to the precedents and relatively little liaison and subsequent re-drafts, the costs of:

- Drafting the new company's constitution
- Preparing the resolution to transfer the club's assets to the new company
- Registering the new company at Companies House
- Companies House fee and swear fees,

would be in the region of £2,000 + VAT.

Should you require more assistance we would agree the scope of that work and would provide a quote to be agreed with you in advance of any work being undertaken.

#### 6. Further Information

This publication is a general summary. It should not replace legal advice tailored to your specific circumstances. If you have any queries or would like to discuss us advising you on the incorporation of your club then please do contact:

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