

## **Incorporation of BSCCP as a CIO**

### **Guidance for members – Update (April 2021)**

#### ***What has been proposed?***

Currently, BSCCP is an unincorporated charity. An unincorporated association has no separate legal personality and as such cannot, for example, contract in its own name or hold property. It exists and acts through its trustees who are potentially personally liable for its activities or where the assets of the charity are insufficient to cover its liabilities. Incorporation is the process of ‘converting’ an unincorporated association into an incorporated legal form. The trustees of BSCCP would like to “incorporate” BSCCP as a charitable incorporated organisation (CIO).

#### ***What stage has BSCCP reached in the incorporation process and what are the members being asked to approve at the April 2021 AGM?***

A new CIO with the same name and trustees as BSCCP was established and registered with the Charity Commission on 21 February 2020 (registered charity number: 1188125). The final stage before BSCCP can start operating through the new CIO is for the existing charity to transfer all of its assets and liabilities into the new CIO.

Before this transfer can take effect, it is important that the existing charity and the new CIO have the same charitable objects. A charity’s objects are a statement of its charitable purposes. The existing charity and the new charity need to have the same objects in order for the assets to be transferred on an unrestricted basis which is important for simplifying the accounting position for the new CIO.

The objects of the new CIO are:

*For the public benefit to protect and promote the health of the public, in particular (but without limitation) by: promoting research and the dissemination of the useful results; the training and education of professionals in relation to the nature, causes, diagnosis, prevention, treatment and cure of cancers of the cervix and lower genital tract and; by providing information and raising public understanding of such matters.*

The objects of the existing charity need to be amended so that they adopt these same objects. This requires a decision of the members. This was delayed last year because the AGM was cancelled because of the coronavirus pandemic. The members are therefore asked to take the decision to adopt the new objects at the AGM on 15 April 2021.

The trustees will then enter into a Transfer Agreement by which the assets and liabilities of the existing charity will transfer to the new CIO with effect from 30 June 2021. From 1 July 2021, BSCCP will operate as a CIO and the existing unincorporated charity will be wound up and removed from the Charities Register.

#### ***What are the benefits of incorporation?***

Because BSCCP is unincorporated, it has no “separate legal personality” of its own and the BSCCP trustees could be held personally liable, if a third party makes a claim against BSCCP, such as an employment claim, claim for breach of contract or a claim in tort (for example, for negligent advice). An unincorporated structure is generally only appropriate for a small charity with very little by way of assets. The trustees of BSCCP are exposed to potentially significant liabilities, for example, because it has employees, leases property and provides medical information and advice (to potentially vulnerable beneficiaries).

By incorporating, the new charity will have a distinct and separate identity from its trustees and members. It can trade, own property and enter into contracts in its own name, and it can sue and be sued in its own name. Many charities are set up as incorporated legal entities, particularly those which hold property, enter into grants and/or contracts and/or work with vulnerable beneficiaries.

Incorporation would substantially mitigate the risk of the trustees or members incurring liabilities. Except in very limited circumstances, the trustees and members of the CIO will not generally be personally responsible for the liabilities of the CIO. This will be important in ensuring that BSCCP can continue to recruit high quality candidates to act as its trustees. It will also simplify the administration of the charity, as it will be able to enter contracts in its own name.

***What is a CIO?***

A CIO is an incorporated legal form which was created especially for charities and which has been in existence since 2010. Unlike a normal company, a CIO is not required to register with Companies House and it is only regulated by the Charity Commission. This means that it is subject to less onerous accounting and reporting requirements.

***Will it affect my rights as a member?***

The CIO has an association model which means that members will continue to have a constitutional role in the charity's governance. For example, the members of the CIO have responsibility for any decision to amend the CIO's constitution, merge or amalgamate with another charity, or to wind up the CIO. This is the model which most closely mirrors BSCCP's existing constitution.

**April 2021**