

UPPER CLAPTON FOOTBALL CLUB

Incorporation as a Company Limited by Guarantee

1. The Club is presently registered as a Community Amateur Sports Club (CASC) which gives it certain VAT and tax advantages.
2. For the reasons set out in the following paragraph the RFU recommends that all unincorporated clubs (including CASCs) should incorporate themselves as companies limited by guarantee.
3. The advantages of incorporation are:
 - a. Members of the club including, in particular, committee members are personally responsible for the debts of the club – if the Club is incorporated no member would be liable for its debts and committee members (as directors of the Club) would only be liable for losses if they had committed some wrongdoing or if the Club continued to trade when insolvent.
 - b. The Club holds its property through trustees. Each time a trustee dies or retires the property has to be transferred to new trustees. The Club, when incorporated, will hold its property in its own name.
 - c. The Club's trustees could be personally liable for damages resulting from their failure to maintain the Club's buildings. When incorporated it is only the Club that can be sued.
 - d. The Club cannot sue or be sued in its own name. When incorporated the Club will be able to sue or be sued in its own name.
4. The Club is about to enter into a significant number of contractual commitments arising out of its successful application for planning permission to re-develop part of its ground for housing (adjacent to Upland Road) and to demolish the old and erect a new clubhouse on the remainder. These will include:
 - a. a contract for the sale of part of the Club's ground;
 - b. a contract for the demolition of the old clubhouse and construction of a new one;
 - c. a loan contract with the RFU in connection with the demolition and construction contract.

It is not appropriate for committee members to incur personal liability in respect of these contracts.

5. The Club is best registered as a company limited by guarantee as opposed to a company limited by shares or an Industrial or Provident Society or a charity (the other structures available to the Club). This is because membership of a company limited by guarantee is not usually intended to be transferable and members of a guarantee company can simply join and resign at a later date.
6. On incorporation the Club's entire activities including its assets and liabilities must be transferred to the new Company and its full voting members must all become members of the new company. Usual price of membership in a company limited by guarantee is £1.
7. An IPS is normally utilised by organisations acting in a co-operative matter (e.g. a trade union) or conducted for the benefit of a community.
8. Charitable status is an alternative to registration as a CASC. The Club is already registered as a CASC. CASC criteria impose strict limitations regarding payments to players including reimbursement of expenses i.e. payment for playing for the Club is prohibited.
9. CASC registration cannot be transferred and it will be necessary therefore for the new company to apply to HMRC Charities at an early stage to become registered as a CASC.
10. HMRC have advised that unincorporated clubs that are CASCs should not incorporate until HMRC's revised CASC guidance is available.
11. The recommendation is to take all steps necessary to achieve the incorporation of the Club as a company limited by guarantee in anticipation of the release of HMRC's guidance note but not to formally incorporate until after that note has been released and the effect of it considered.
12. The incorporation of the Club need not delay the completion and implementation of the newly acquired planning permission or the proposed sale of the land and demolition of the old and the construction of a new clubhouse.

2 January 2013

E. Sibley