

SUABC

Proposed Changes to the Clubs current legal structure.

Guidance and Information Schedule

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1.0 Introduction.

This document and supporting British Rowing documentation have been provided to the club management initially, and now to the members for consideration in respect of changing the legal structure of **Stratford Upon Avon Rowing Club “The Club”**.

Whilst rowing as a sport has some inherent risks it is not overly dangerous if carried out under a rules-based risk assessed structure. There remain however potential significant hazards associated with the sport such as:

Travelling to and from regattas or training.
Towing trailers.
Other water users and water hazards etc.
Boat management on water ,i.e. steering etc.
Capsize risk.
Incidents between crews.

As society gets more litigious and a noticeable increase in cases in the “no-win, no fee” arena, the issue of liability arising from water safety and other activities of The Club necessitates a review of our corporate structure.

In addition, a grievance or disciplinary procedure for an unincorporated association, which The Club is, could have a significant impact on its future as well as potentially give rise to liability issues for club officials and members.

As a club we primarily operate on an often-crowded stretch of narrow water with the potential for accidents and mishaps with other water users and each other.

It is likely that this situation is only going to grow particularly with more water-based leisure activities using the river and the potential development of land at the Fisherman’s Car Park to provide more on water leisure facilities.

2.0 Current Corporate Structure.

Currently the Club is an unincorporated association, i.e. the Club does not have an independent legal identity. Details of this type of corporate structure is detailed in the accompanying document produced by Alan Meegan for British Rowing which should be read by all members. Basically, Members are jointly and severally liable for any liabilities.

Alan Meegan has advised that rowing clubs nationally are reviewing their legal structures and are changing to a form of incorporated limited liability company of a type scheduled below.

There are advantages and disadvantages for each type of corporate structure.

Proposed Club Structure.

Either:

Company limited by Guarantee.

Company Limited by shares.

Community Interest Company.

Charitable Interest Company

Charitable Incorporated Organisation

Industrial and Provident Society [also known as a mutual Society].

Details of these type of Company structures [advantages and disadvantages], is again detailed in the document produced by Alan Meegan for British Rowing.

By changing to one of the above we remove the liability risk both to individuals and the collective membership which is outlined in the BR document referred to above.

This is the primary reason for the change given the increasing litigious world we live in, the inherent risks of the sport in general, and our own particular operating circumstances.

The following is a series of questions and answers set out in such a format to provide some succinct information on the implications of any change.

This has been based on questions raised by some management members following initial presentation of this document to them and from discussions with the representative of the local sports club which has undergone this process three years ago.

Discussions have also been held with Alan Meegan head of facilities at British Rowing and others to formulate a better understanding.

This report is not designed to be treated as definitive information but is to provide outline information and guidance to the membership in consideration of any decision to proceed.

Professional guidance would need to be sought to fully understand the process, costs, and implications of any such change, and this expanded on below.

Items prefixed A are specific answers to management members.

1. Q: Preferred type of incorporation.

A: Company Limited by Guarantee. This would limit members individual liability to the value of the guarantee usually £1 or £5.

Preferred by British Rowing Facilities Manager Alan Meegan.

2. Q: Expert Help required.

A meeting has been held between TD and Nick Abell who has guided Stratford Sports Club through the same process.

Nick has recommended experienced solicitors and accountants used to dealing with this type of work.

The following companies have been approached by TD.

Solicitors :Shakespeare Martineau. Andrew Smith

Accountants ;TC Group. Mark Bullock

TD will brief both companies on the likely proposal and obtain necessary costs for carrying out the legal and accountancy administration.

A: Solicitors and Accountant. Lease will need to be reassigned and accounts drawn up for the existing and new entity.

A: Club members are not recommended to undertake these duties due to the requirement for professional indemnity cover.

3. Q: Costs.

A: incorporation fees [few hundred].

A: Set up costs, professional fees,[solicitors, and accountants].TBC may be £6-8K or more.

A: Ongoing costs for Directors Liability Insurance.

A: Potential risk of Corporation tax on company profits.

A: Yearly accountants fees.

4. Q: Approvals required.

A: SUABC will require the approval of the Town Trust as currently the premises are leased to an unincorporated association/club not a company.

A: Approval by the current membership at an AGM or EGM.

5. Q: Lease implications.

A: SUABC will need approval from the Town Trust to change or reassign the lease to the new limited company. This will involve either a new lease being agreed between the parties or amendments to the existing lease. Solicitors input would be required. In my recent personal experience of this process on another premises this can be a drawn-out affair.

A: The assets of the members Club will need to be transferred to the Limited Company via some form of legal transfer from the members to the new company.

A: Not having much[i.e. property] assets make this process simpler than it might otherwise be.

6. Q: How many Directors of the new company.

A: Enough to ensure a quorate at meetings but not so many that people hide and don't contribute. Board of directors to possibly be led by the Club Chair who is elected every year.

A: sensible number would be about 5 for our size of club.

7. Q: Directors make up.

A: A mix of Club and Non-Exec. would be the preferred solution, possibly split 3 or 4 Club Directors and 2 Non exec [i.e. external non club members] Directors.

A: Club members who possibly should act as directors: Chair, Treasurer, Secretary?

The purpose of the Directors is to ensure that correct Company governance [in terms of following policy management documents, and financial probity], is being followed, **not to manage the day to day rowing issues or running of the Company**. This is what our Exec does now. That is what non exec Directors would also be looking at.

8. Q: Directors terms of office.

A: Can be open ended however it is probably best to have terms limited,[3-5 years?], possibly with elections and a maximum of 2 terms served by an individual.

A: Director's appointments/elections should be staggered so a percentage only of Directors positions are up for election in any one year or two-year window to maintain board experience and continuity whilst introducing and inducting new people.

It can be problematic in finding Directors particularly with those who may have, or wish to set up, other companies in the future.

9. Q: Accountancy work involved.

A: Closing accounts from the Members Club and new accounts for Limited Company.

A: Asset registers, [we already have this so hopefully not too much additional accountancy work above and beyond what Kate /Jake already carry out].

A: Accounts to be filed each year at Companies House.

A: External accountancy audit ?.

10. Q: Time period for changing to an Incorporated Company.

A: Dependant on Town Trust approval time frame and process i.e. dealing with solicitors etc, but otherwise might be several months. However, in my recent experience drawing up and agreeing a new lease can take 6 months so I would suggest a time frame from commencement of 6 months is reasonable.

11. Q: Does it affect the way the club is currently run.

A: Probably not in the case of SUABC.

For SUABC:

Members Club [current].

Executive Committee.

Management Committee.

Limited Company [proposed].

Board of Directors [some new i.e. non exec people].

Company Management [same people].

Rowing Committee.

Rowing Committee [same people].

12. Q: Worth doing.

A: Yes in the opinion of the Nick Abell from the Sports Club and Alan Meegan of BR. Enforces/encourages good governance. Limits liability.

A: Most sports clubs including rowing clubs are moving this way in some form in terms of their club governance.

13. Q: Do we need expert advice.

A: Yes expert legal advice is required. Suitable solicitors with the relevant expertise have been sourced and initial meetings held with them.

Legals: Andrew Smith Partner Shakespeare Martineau

Accounts: Paul Bullock Partner TC Group

Both are experienced in this type of work.

To date there has been no formal appointment of any professional bodies.

14. Q: Problems.

A: This is a fairly complex undertaking, and all members need to be fully involved from the outset with a good understanding of why and how. It is likely that significant current members do not know or understand the current club legal structure or their current liability exposure.

I am not sure how the current liability of members affects underage junior members or their parents but will attempt to clarify this.

It is very important we communicate this to all members including juniors and social /non rowing members.

15. Q:How would this affect our current charitable status.

A: As a company limited by guarantee we can continue to retain our CASC status and the benefits therein.

16. Q: VAT.

A: Registering for VAT may cause more problems than benefits. Many organisations even those with supposed professional in house expertise do not fully understand VAT relief and given the complexity of our expenditure we will undoubtedly incorrectly claim or fail to claim the correct VAT relief and may draw the attention of HMRC [which has happened in the past], which is something to be avoided.

The intention is to keep this as a live document and therefore add any further questions and information as it arises. This can then be recirculated to the members at an appropriate time.

17 The next stage.

We have reached the position where we need to obtain membership approval to proceed with this process. There is significant time and future expenditure involved in this process and The

Club needs to confirm it is happy to proceed with this change before time and money is committed.

The Club management is in agreement with moving forward on this.

We need to determine therefore if the membership decides to proceed on the preferred type of incorporated entity we wish to be.