

**BSGAR**

**British Society of Gastrointestinal Abdominal Radiology**

**Charity Registration Advice Report**

 **SHAKESPEAREMARTINEAU**

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## **1. Introduction**

- a. We have been instructed by BSGAR to advise on the pros and cons of establishing as a separately registered charity.
- b. Instructions to date have been provided by Christopher Clarke and Liz Jones of BSGAR to Catherine Rustomji of Shakespeare Martineau LLP.

## **2. Current Structure**

- a. BSGAR is currently structured as a charitable unincorporated association which operates as a special interest group under the charity registration of The Royal College of Radiologists – Charity Number 211540.
- b. This structure means that BSGAR doesn't have its own legal identity, i.e. BSGAR doesn't exist at law. It operates and exists through its Management Committee.
- c. As an unincorporated entity, should BSGAR incur liabilities in excess of its assets, the members of the Management Committee could be jointly and severally liable to contribute from their personal assets to the shortfall in BSGAR's assets.
- d. If the decision is taken to establish as a CIO, the existing BSGAR Constitution will no longer be applicable and the governing document of BSGAR going forward will be the CIO Constitution only. No changes will be made to the original Constitution, it will simply cease to exist.

## **3. Possible Structure**

- a. BSGAR could choose to establish itself as a charity in its own right, separately registered from The Royal College of Radiologists with its own charity number.
- b. A Charitable Incorporated Organisation (CIO) is a limited liability structure only available for use by registered charities.
- c. A CIO can either be a Foundation CIO (where the Trustees and the Members are the same people) or an Association CIO (where there is a smaller group of Trustees and a wider group of Members). An Association CIO might be suitable for BSGAR which operates with different categories of members.

## **4. Pros and Cons**

### **Pros**

- a. Limited liability structure – no continued risk of personal liability of the Trustees provided they have not acted in breach of trust, breach of duty, gross negligence, fraud or criminal activity.
- b. A limited liability structure may also make it easier to attract new Trustees in the future.
- c. A separate legal structure would allow registration with HMRC for tax purposes once the CIO is registered. This may open up new income sources, with the benefits of Gift Aid being paid to the CIO.
- d. An opportunity to adopt a new governing document with latest best practice provisions but tailored to BSGAR's requirements.

- e. Greater certainty and formality of BSGAR existing and operating as a charity in its own right could help to raise the profile of BSGAR

### **Cons**

- f. The process of establishing as a CIO and registering with the Charity Commission will take some time, effort and cost.
- g. The wording of the objects of the CIO need to be carefully considered and time spent reviewing the draft CIO Constitution to ensure that it is 'right'.
- h. Any existing assets will need to be transferred to the CIO.
- i. A new bank account will need to be opened and letterhead/details updated to show the CIO's name and charity number.

### **5. Process**

- a. Decide to register BSGAR as a charity;
- b. Choose either Foundation CIO or Association CIO;
- c. Charitable objects to be drafted using information from the existing aims;
- d. Remaining provisions of the Constitution to be drafted and agreed;
- e. Identify first charity trustees;
- f. Finalise Constitution and Trustee Declaration for signature by the first trustees;
- g. Prepare online application for registration with the Charity Commission – information to be included on the proposed activities, finances and funding;
- h. Application finalised and submitted to Charity Commission;
- i. Correspond with the Charity Commission as required;
- j. Advise on the transfer of assets to the new CIO – draft a Transfer Agreement if required;
- k. Advise on registration formalities and related matters;
- l. Operate through new CIO.

### **6. Timescale**

- a. The timescale to carry out all the steps listed in paragraph 5 will depend on the availability of those leading on this task within BSGAR and also the availability of the first trustees to be able to sign the documents.
- b. An indicative timescale would be 3-6 months but this depends on any backlog at the Charity Commission when the application is submitted.

### **7. Cost**

- a. The cost to advise on all the steps listed in paragraph 5 is likely to be in the region of £2,500 - £2,950 + VAT.