THE ASSOCIATION FOR GAFF RIG SAILING

4th August 2025

OGA GMC
Proposal to Change the Legal Status of the OGA - Q&As

For pre-reading, before the October 2025 ACM, here are some prepared Q&As on this proposal.

Background

April 2025 AC Assignment: - The GMC will make a proposal, for discussion at the next ACM, on the OGA becoming a company limited by guarantee. This initiative is being led by Georgina. The OGA is currently an unincorporated association which means:

(i) it is not a legal entity or body so we have no recognisable legal status,
(ii) members of the ACM and GMC are personally liable to any actions done by other committee members (nationally) or legal actions taken against the OGA, with no restriction on the financial extent of that liability, and
(iii) the OGA cannot be the owner of any assets or property i.e., bank accounts, trademarks, Gafflings, trophies, bonds etc.

The GMC has explored a number of options including becoming a company limited by guarantee ("**Limited Company**") which would mean that all committee members' liability would be limited to £1 and the OGA could own property. Another option is the OGA becomes a Charitable Incorporated Organisation ("**CIO**") where committee members' liability would also be limited but there would be additional benefits for the OGA, or a Community Interest Company ("**CIC**"). Appendix 1 to this bundle sets out the differences of these three types of legal body vs. unincorporated.

Why change now?

- The OGA is a national organisation that has grown in size over the last 60+ years and so the way it looks now, and the nature of sailing compared to then has drastically changed. The geographical range of the committee means that other committee members won't always know what is going on or how others are organizing their events and activities or entering into contracts (i.e., increased risk of personal liability).

- Sailing, by its nature, is a dangerous sport and attitudes to health and safety and accidents has changed over recent years (for example, the result of the – if a claim is made for negligence or injury/damage/death due to negligent organisation of an event, our OGA insurance is unlikely to cover any claims (increased risk of personal liability and personal financial risk).

- The OGA is currently unable to enter into contracts in its own name, or be the owner of any trademarks.

The Current Position:
The current legal structure of the OGA is as an unincorporated club that is bound by a set of rules. The OGA Rules are the governing document and forms a contract between each and every member of the club. The Association Committee is the governing body of the Association and is responsible for policies, direction, commonality across Areas, legal matters and finances. The Association Committee is made up

of the Presidents and Secretaries from every Area and the General Management Committee. The General Management Committee acts on behalf of the Association Committee in implementing the day to day business of running the Association.

The Objectives of the Association are:

- To encourage interest in and sailing of gaff, lug and spritsail rigs and their development.
- To encourage seamanship and comradeship.
- To offer advice and help to members.
- To organise races, rallies and social events.
- To increase the number of events that cater for trailer sailors/small boats.
- To maintain a Boat Register to provide information on historic and current boats of interest to OGA members.
- To remain financially viable and sustainable

The law does not recognise an unincorporated club as a separate legal entity from its members, instead its legal identity exists in each and every member of the club, jointly and severally. As an unincorporated club it cannot hold property in its own name so must have trustees to hold legal ownership of property on trust for the beneficial ownership of the members of the club as a whole (i.e., trademarks, Club Boats, cash, shares etc.) or enter into contracts in its own name.

No.	Question	Answer
Liability of Committee Members		
1	Does the OGA's insurance cover 'negligence'?	In the context of legal and insurance, "negligence" generally means failing to exercise the care that a reasonably prudent person would exercise under similar circumstances, resulting in harm or loss to another party. **<u>OGA Public Liability Insurance</u>** – Our insurers have said that we are covered for all negligence. **[A second opinion is recommended]** **<u>OGA Directors & Officers Liability Insurance</u>** - Our insurers have said that we are covered for all negligence. **[A second opinion is recommended]**
2	What is the personal liability of the Officers of the OGA in the event of a claim against the organisation?	If the OGA is ordered to pay a claim/ settlement amount, and insurance will not cover it, the amount will be equally split between all committee members. This could range from small amounts to in some extreme cases, millions of pounds. A claim/ settlement doesn't have to be just for injury/ death but could be for damage to property, loss of enjoyment, loss of earnings etc.
3	What kinds of claim might occur that would not be covered by the insurance the OGA holds?	<u>Examples for land based activities:</u> • Negligent assembly of a marquee that causes injury/ damage i.e., it blows over in a strong wind (this has happened at a 2025 OGA event but no damage or injury was caused)

		• Negligent usage of a BBQ/ kitchen that causes injury/ damage • Overloading of an electrical socket causing a fire leading to injury/ damage • Blocking a fire exit that results in injury (due to a negligent action i.e., putting a table in front of it) • Providing poor instructions for land based activities that result in injury i.e., leading a walk on a dangerous path • Continuing with a land based activity against any professional advice <u>Examples for sea based activities:</u> • Providing poor sailing instructions (separate from racing instructions) that cause damage and/ or injury • Negligent maintenance of an OGA vessel that causes damage/ injury • Inadequate risk assessment of a port/ pontoon/ anchorage that results in damage/ injury • Continuing a rally when it has been advised that is unsafe to continue i.e., due to weather advice from the Coastguard/ MetOffice etc. <u>From the RYA Legal Team:</u> The courts have been awarding damages to claimants for personal injuries suffered during sporting and other activities for many decades. It is recognised by the courts that a duty of care is owed by one participant to another engaged in a sporting activity and the key determinant of liability is whether or not the standard shown by one party to the other fell below the standard reasonably expected of a person playing that game. The courts will also take into account any contributory negligence on behalf of the claimant, often reducing the award of damages by a significant percentage, if the court considers that the claimant contributed to his own personal injury in some way.
4	What might be the size of such a claim?	A claim could range from a single individual or a single business to a group action claim (multiple people). For example, if a claim results from a boat accident, you would have the skipper(s) and crew from all boats involved. Cases provided by the RYA legal team as examples (full document can be provided upon request to Georgina Tall): *Boating specific:*

		• [2002] 44 year old male, suffered head and facial injuries in a boating accident. Judge awarded a total of £42,000 • [1999] – 57 year old male, involved in boating accident where his colleague drowned and left the Claimant with PTSD. Judge awarded a total of £42,000 • [2009] – Claimant suffered personal injury whilst sailing on a boat owned by the Defendant and suffered injuries to his leg. Judge awarded a total of £32,105.28 • [2000] – 46 year old male sustained an injury from an inadequately secured life raft, which fell from a height as the boat hit a choppy sea, falling on the Claimant. Judge awarded a total of £21,500 • [1999] – Claimant suffered serious injury resulting in permanent brain damage. The Claimant sought damages on the basis that the Defendant owed him a duty of care to provide appropriate medical assistance during planned contests. Judge awarded £1million which was later reduced on appeal to £400,000 *Sports related:* • Two cases [2008 & 2016] demonstrate that there is scope for claiming damages for the negligence of a sports instructor for lack of reasonable skill and care, however there is a correlation with both judgements apportioning some responsibility on the Claimants to voice any concerns they may have regarding the activity they are being asked to undertake. The settlement amount for the 2008 case is confidential but the 2016 case the estimated damages are in excess of £3million. Although the amount of damages awarded in each of the four boating cases listed above are relatively low in comparison to other awards of damages, it is easy to see how the amounts can increase rapidly where more serious injuries are incurred, particularly where the claimant is young and might suffer loss of earnings for many years ahead. References to awards of damages of several million pounds are not unusual4 and it is prudent for RYA affiliates and RTCs alike to ensure they

		have adequate insurance in place to cover such eventualities. It is worth keeping in mind that these are from cases that have been made public, many matters are settled privately through litigation where the settlement amounts are kept confidential.
5	How likely is it to occur?	There is no record of there ever being a claim for damages against the OGA in our 60+ years. This doesn't mean that there is no risk – is it better to hope it doesn't happen and remain potentially unprotected or put limitations in place before it happens.
6	If there was a claim arising from an incident in a particular Area, could all AC members be held to be responsible?	Yes, as an unincorporated body all ACM and GMC members would be held responsible for the actions arising from a particular area. This is because these are the primary groups that make the decisions and are designated as the decision-making groups within our Rules.
7	Does having "limited liability" reduce our insurance premiums?	No, this is different from insurance. It ensures that individual members of the ACM and GMC are no longer personally liable for any claims or settlements. Instead, their liability will be limited and the claim would be directed to the area/ officers at fault.
8	Will there be any effect on our insurance if the OGA were to incorporate as a legal body?	Our insurer said "regardless of the "type" of organisation, cover will be provided under the name of Old Gaffers Association. This process will therefore not have any bearing on the insurance.
Impact on the OGA as an organisation		
9	If we go down the "incorporated" route, what would be the impact of this on the organisation? What does it mean for the existing roles in the OGA and would we need any new ones?	**CIO**: • We would have at least one trustee (as required by law) but recommended to have at least 3 trustees – these can either be voted by the members or as set out in our Articles of Association (equivalent to rules). It could be the National President, National Secretary and National Treasurer or any who put themselves forwards to be elected as a treasurer i.e. there may be ACM presidents/ secretaries/ elder gaffers who are knowledgeable in the OGA and keen to be a trustee. • Trustees' liability is limited or no liability at all • Any profits generated must be used for the charity's purpose i.e., promoting gaff-rig sailing and the gaff-rig community • We would be eligible for charitable exemptions such as Gift Aid and Corporation Tax exemptions • More likely to be eligible for grants

		• Must hold trustee meetings but not mandatory to hold AGMs • One person would be required to do the filing which could be the Company Secretary or a nominated person.
10	What are the costs of setting up and of maintaining our CIO status?	**Set Up** • There is no fee to register as a CIO. • There is no fee to register with HMRC. • We would change our bank account to a charity bank account. **Annual Costs After Set Up** • Cost of an independent examination of the annual accounts (not an audit) if gross income is more than £25,000 but less than £1million. If £25,000 or less than no examination is required. The independent examiner may charge a fee or be pro bono. • No cost for the annual filings with the Charity Commission The majority of a charity's income, typically between 60-70%, should be spent on supporting the charity's cause, with the remainder covering these running costs.
11	How long would it take to incorporated as a CIO?	Plan for 4 months to register your charity. One month to pull together all the information and write your application and 3 months for it to be approved, although it can be much quicker or take even longer. Georgina Tall has offered to complete the set up but is open to have a small working group to aid discussions and answers.
12	What effect would it have on the financial record keeping and reporting and what we would need to do (both centrally and in the Areas)?	If our gross income is less than £25,000 then the accounts would just be receipts and payments accounts with a statement of assets and liabilities with approval by the trustees. If our gross income is £25,000 to £250,000 then the account would be receipts and payments accounts with a statement of assets and liabilities with lay independent examination (sample accounts template available). If our gross income is over £250,000 to £500,000 then we would need to prepare accruals accounts and submit them to an accountant for examination (sample template available).

		Sample accounts for Limited Company also available.
13	If we apply to become a 'Charitable Incorporated Organisation' might we be challenged that we really only exist to benefit our members and don't have much in the way of a wider charitable purpose?	There are other sailing clubs that are CIOs and it is by carefully wording the activities for the club. For example, Hickling Broad Sailing Club CIO "*promotes community participation in healthy recreation by providing facilities for sailing on Hickling Broad and adjoining waters, as well as facilitating canoeing, kayaking, rowing, wind-surfing and paddle boarding and aims to advance education and training for the public benefit in the subject of sailing and the use of power boats as safety boats*." Similarly, York Sailing Club "*promotes and facilitates community participation in sport and healthy recreation by providing facilities for sailing and other water-based activities, primarily exclusively for those resident in York and surrounding areas*." Our purpose could be considered to be **promoting and facilitating community participation in sport and healthy recreation by providing facilities (events, tours, talks, training) for sailing of traditional gaff, luff and spirit sail boats, as well as encouraging and supporting access to younger people across Britain and Ireland**. The clubs mentioned above require membership to join the majority of their events like we do.
14	If we become a Company Limited by Guarantee we would pay Corporation Tax on our profits. Our income almost all comes from members subscriptions. We seem to have settled into a rhythm of building up our reserves so that we can fund a big event every 5 years, and also help with specific projects like the Gaffling. Would the money we put aside most years to build up the reserves be considered 'profit' and therefore taxable?	Any revenue/ income less expenditure is profit and the profits would be taxable. As our expected profits are likely to be less than £50,000 corporation tax would be set at 19% unless the corporation tax amount due is less than £100 in which case we would be exempt. The accountant has suggested that the subscription revenue could be put into a savings/ investment account to see some sort of return on investment. It won't exceed the 19% rate but it would offset some of the cash flow loss.
15	Who can be a trustee of a CIO?	The requirements are: • At least 16 years old • Cannot have been previously disqualified as a trustee or company director • Cannot be an undischarged bankrupt • Cannot have certain unspent criminal convictions i.e., relating to dishonesty,

		deception or offences involving financial crimes (bribery, money laundering), the sex offenders' register
16	What are the duties of a trustee of a CIO?	• Ensure the OGA's activities are for the public benefit • Comply with the law and governing document • Act in good faith and only in the interests of the OGA, making informed and balanced decisions • Manages the OGA's resources responsibly • Act with care, skill and diligence • Ensure the OGA is accountable to donors, beneficiaries and regulatory bodies • Manage conflicts of interest to ensure the OGA's interests are always prioritised

A list of similar sports bodies and their legal status:

The Cruising Association	**Private Limited Company by guarantee without share capital use of 'Limited' exemption**	Link
Drascombe Association	Unincorporated Body	Rules
Norfolk & Suffolk Boating Association	**Private company limited by guarantee without share capital**	Link
Cody Sailing Club	Unincorporated	Extensive limitation of liability clause in constitution
International GP14 Class Association	Unincorporated	
Tideway Class Association	Unincorporated	
Wayfarer Class Association	Unincorporated	
Wanderer Class Owners Association	Unincorporated	
Dinghy Cruising Association	Unincorporated	
Shrimper Owners Association	Unincorporated	
Bench Blisters Rowing Club Limited	**Private company limited by guarantee without share capital**	Link

London Cornish Pilot Gig Club	CIO	Link
Cornish Crabbers Club	Limited Liability Partnership (LLP)	Constitution
Portsmouth Offshore Sailing Group Ltd	**Private company limited by guarantee without share capital**	Link

Appendix 1: Comparison Table of Incorporation Options

Aspect	Unincorporated Body	Company Limited by Guarantee	Charitable Incorporated Organisation (CIO)	Community Interest Company (CIC)
Legal Status	None	Separate legal entity	Separate legal entity	Separate legal entity
Registered with	Not applicable	Companies House	Charity Commission	Companies House CIC Regulator
Purpose	Any lawful activity	Any lawful activity	Must have exclusively charitable purposes (e.g., advancement of sport, education, health)	Must benefit the community, but not necessarily charitable.
Profit Distribution	None, no profits are made	Profits must be reinvested; no shareholders.	No profits to private individuals; all funds used for charitable purposes.	Limited profit distribution; dividends capped at 35% of profits.
Funding	May be ineligible for certain grants and donations	Eligible for grants	Eligible for grants	Can attract social investment and grants
Tax Status	May be liable for income tax depending on the type of bank account used for the body's funds	Liable for corporation tax unless it registers as a charity separately.	Exempt from Corporation Tax if activities are purely charitable.	Liable for Corporation Tax but can reinvest profits for social benefit.
Tax Benefits	None	No automatic tax exemptions	Eligible for charitable tax exemptions (e.g. Gift Aid, no Corporation Tax)	Pays Corporation Tax
Administration & Reporting	None required	Dual Regulation: Must file annual accounts and confirmation statement with Companies House; tax return to HMRC.	Single Regulation: Only reports to the Charity Commission registration; lower administrative burden.	Dual Regulation: Reports to Companies House, the CIC Regulator and HMRC.
Annual Costs & Fees	None	Filing fees: £13 for the confirmation statement. Accounts preparation costs depend on complexity.	No fees for Charity Commission registration; lower administrative burden.	CIC Regulator Fee (£15-£27 annually), plus Companies House fees.
Governance & Board	Governed by the ACM and GMC.	Governed by directors/ trustees; must follow Company Law.	Governed by trustees, who must comply with Charity Law.	Governed by directors, must pass a Community Interest Test.
AGM & Decision-Making	Not legally required	Recommended but not legally required	Must hold trustee meetings, but AGMs are not mandatory	Directors must meet governance rules, but no AGM required
Ease of Setup	n/a	Fast registration (within 24 hours online)	Slower process (up to 40 days with the Charity Commission)	Moderate registration time (often 1-2 weeks)
Winding Up & Asset Lock	n/a	Can distribute remaining assets according to the rules	Must transfer assets to another charity if dissolved	Asset lock applies – must distribute assets to a similar CIC or charity.

Reference Sources

https://www.rya.org.uk/club-centre-support/affiliates/legal-advice/legal-structure-of-your-club

RYA Guidance: Legal Structure of your Club

RYA: Liability Guidance for Unincorporated Clubs

RYA: Guidance for Forming an Unincorporated Club

RYA: Guidance on Forming an Incorporated Club

https://www.gov.uk/register-a-community-amateur-sports-club/print

CIC-vs-a-Charity-What-are-the-differences.pdf

https://www.sportingheritage.org.uk/wp-content/uploads/2021/10/Legal-Structures-At-A-Glance-Table.pdf