improving
public transport
through technology

# Restructure of RTIG

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## Status of this document

This document is Released.

If there are any comments or feedback arising from the review or use of this document, please contact us at secretariat@rtig.org.uk

# 1 Introduction

## 1.1 About this document

1.1.1 This document has been produced for the Real Time Information Group (RTIG) to help members understand a forthcoming legal restructuring of RTIG

## 1.2 Introduction

1.2.1 There are proposed changes to the legal structure of the organisation that you know as RTIG and are a subscribing member of. This paper sets out the background to the current legal structures and outlines proposed changes for your comment.

1.2.2 We will be holding an online Q&A sessions about these proposals on Wednesday 17 August at 13:00 and Tuesday 6 September at 12:00.

1.2.3 When changes are notionally agreed and are progressed, we will need to hold an Extraordinary General Meeting of members to approve the changes, this is not the only chance therefore to comment and ask questions.

# 2 Background

2.1.1 RTIG has existed formally since 2004, prior to that we were an informal group.

2.1.2 The organisation “RTIG” is comprised of two entities:

- RTIG-Inform is an unincorporated association to support the development and promotion of technology and information systems in passenger transport operations. As it is neither a natural person nor a legal person (a body corporate), this means:
- it cannot hold assets, enter into contracts or sue and be sued in its own name;
- it is an unlimited liability structure – liabilities are primarily the responsibility of its management committee. Often in unincorporated associations liabilities are passed out to the members, but this is not the case for RTIG-Inform.

2.1.3 For these reasons RTIG-Inform is dependent on the Real Time Information Group Limited (RTIG Ltd) as an incorporated body. RTIG Ltd is currently operated as a subsidiary of Merseytravel. RTIG Ltd provides various services to RTIG-Inform, including: financial management, holding intellectual property and other assets for RTIG-Inform, entering into contracts and serving other RTIG-Inform business needs. See figure 1.

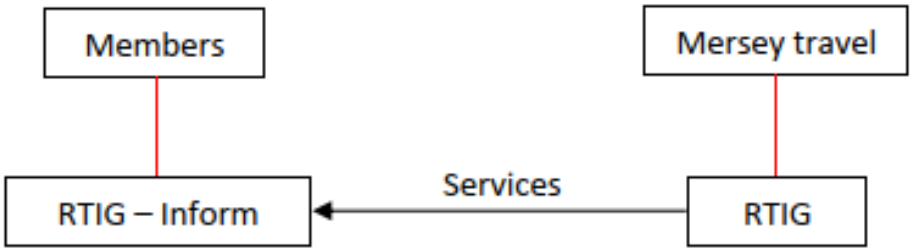


*Figure 1 Current structure*

2.1.4 Historically, the nominee sole shareholder of RTIG Ltd was rotated amongst incumbent Chair of RTIG-Inform but since February 2011, the nominee sole shareholder has been Merseytravel.

2.1.5 RTIG Ltd is expected to operate in RTIG-Inform’s interests, and to use any assets available to it by virtue of its links with RTIG-Inform for the benefit of members collectively (paragraph 4.2 of the RTIG-Inform constitution).

2.1.6 RTIG Ltd contracts with a service provider to deliver the services needed by RTIG-Inform to run working groups, events, provide advice to members etc. Accounting and legal support is provided by the parent company Merseytravel.

2.1.7 RTIG is a not-for-profit company limited by shares. This is an unusual structure for a non-charitable not-for-profit entity, which would usually be a company limited by guarantee or a community interest company limited by guarantee.

2.1.8 Merseytravel, following a review of corporate governance has identified that it is not appropriate for them to remain the nominee owner of RTIG Ltd. In 2018, RTIG-Inform explored proposals to transfer the nominee ownership of RTIG Ltd to other Authorities without success.

# 3 Proposed Structure

3.1.1 To provide the current directors of RTIG Ltd and committee of RTIG-Inform legal advice, on future structures and arrangements, has been sought from national law firm, Bevan Brittan.

3.1.2 Bevan Brittan provided a number of options considering potential futures for RTIG which have been considered by the committee and the proposed future arrangement is to create a new company that is setup as a Company Limited by Guarantee (see appendix 1 for more information about Companies Limited by Guarantee).

3.1.3 Into this new company the current RTIG Inform activities and RTIG Ltd assets would be transferred, see figure 2. It will continue to be possible to use RTIG as the public facing name for the organisation.

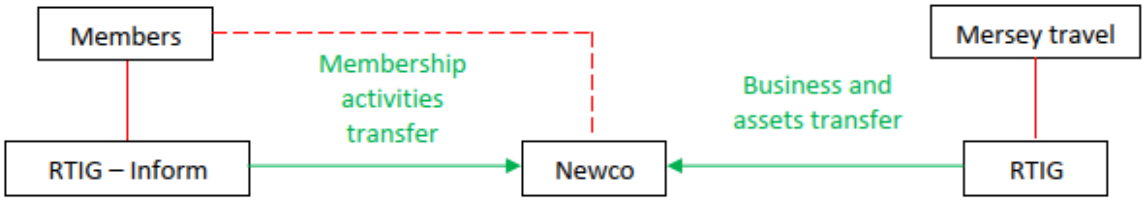


*Figure 2 Proposed structure*

3.1.4 It is expected that the intellectual property for the standards and documents will be transferred to the new company.

3.1.5 The move to this structure requires the approval of subscribing members of RTIG-Inform, the directors of RTIG Ltd and the Department for Transport.

# 4 Governance Arrangements

4.1.1 The current structure result in directors of RTIG Ltd and committee members of RTIG-Inform, both of whom have responsibility and liabilities for the relevant corporate body.

4.1.2 In practical terms the day-to-day operation of RTIG-Inform is managed by the General Manager with oversight by the RTIG-Inform committee and Directors of RTIG Ltd and Merseytravel.

4.1.3 The committee is elected from member organisations and represents the four broad sectors in the industry - Operator, Authority, Supplier and Consultant. The RTIG-Inform constitution provides for members who are at Foundation level to propose committee members for their sector area which are then voted (if necessary) for by the wider membership within that sector.

4.1.4 It is this committee that creates the business plan for approval at the AGM and oversees delivery of the plan. The business plan is funded by the subscriptions that are paid to RTIG Ltd and delivered through the management contractor.

4.1.5 In future it is likely that organisations that join at Foundation level would become ‘Members’ of the company and the committee would act as directors of the company. Organisations joining at Full and Associate level would not become ‘Members’ of the company and receive the same services as currently through the current arrangements.

4.1.6 This is an area that we want to consider in more detail and receive your comments before finalising future governance arrangements. The most likely alternative is that current Foundation, Full and Associate would all be ‘members’ of the company, but, as at present the organisations at Foundation level propose the directors for election. It is proposed to do this during the Q&A session planned for Wednesday 17 August at 13:00 and Tuesday 6 September at 12:00.

# 5 Implications for Members of RTIG-Inform

5.1.1 With our favoured option:

- for the majority of organisations who join RTIG-Inform there will be no noticeable change, you will just pay your subscription to a different company.
- for those organisations who are Foundation level, they will become Members of the new company and their rights will change from being able to nominate a Committee member to being able to nominate a Director.

# 6 Timescales

6.1.1 We want the new company to be setup in Autumn 2022 to enable it to be fully operational at the start of 2023.

# Appendix 1 Companies Limited by Guarantee

Copied from https://www.companylawclub.co.uk/companies-limited-by-guarantee

**Introduction**

Companies limited by guarantee are widely used for charities, community projects, clubs, societies and other similar bodies. Most guarantee companies are not-for-profit companies - that is, they do not distribute their profits to their members but either retain them within the company or use them for some other purpose. Most such companies need their articles to be drafted for that particular organisation, and this is the main specialised work to be undertaken.

**Why use a guarantee company?**

The main reason for a charity, community project, etc. to be a company limited by guarantee is to protect the people running the company from personal liability for the company's debts, just as a business may be set up as a company limited by shares for the same reason. Sometimes funding bodies, such as local authorities, insist on an organisation being registered as a company limited by guarantee.

**Limited liability**

If a charity, community project, club, etc. is not registered as a limited company, then the people running it (typically the management committee or a similar body) can be made personally liable for its unpaid debts. This can be a real risk. Some charities, community groups, sports clubs, etc. can be substantial enterprises, with liabilities that cannot easily be turned off. They may have leasehold premises, employ people, have equipment on finance contracts, etc. If the income does not meet these outgoings, the organisation may become insolvent, and the people running it (though not usually the members at large who are not on the committee) can be made personally liable for the shortfall. This can happen because of unforeseen and unfortunate circumstances, such as the sudden withdrawal of financial support from a body such as the local authority.

With a company, on the other hand, the company itself is a separate legal entity and it, not the people who own or run it, is liable for its debts. In a company limited by shares, the shareholders' liability is limited to the amount the shareholder has agreed to pay for his or her shares. In a company limited by guarantee, the liability is limited to the amount of the guarantee set out in the company's articles, which is typically just £1.

In both a company limited by shares and one limited by guarantee, the people running the company (the directors) will only incur any personal liability for the company's debts if they have been guilty of some wrongdoing, such as wrongful or fraudulent trading.

**What is different about a guarantee company?**

A company limited by guarantee is much like an ordinary private company limited by shares. It is registered at Companies House, must register its accounts and an annual return each year, and has directors. A major difference is that it does not have a share

capital or any shareholders, but members who control it. This is explained more fully below.

**Members, not shareholders**

In a company limited by guarantee, there are no shareholders, but the company must have one or more members. Subject to any special provisions in the company's articles, the members will be entitled to attend general meetings and vote, and in most companies that means they can appoint and remove the directors, and have ultimate control over the company. Many clubs operate on this basis. The members meet at the Annual General Meeting and elect a committee to manage the club on their behalf, and subject to the rules in the club's constitution. If the club is a company, the same rules will apply and will be set out in the company's articles. By and large, the company law provisions relating to general meetings, resolutions, etc. in ordinary share companies apply to companies limited by guarantee.

Just as in a company limited by shares there may be different classes of shares, it is possible to have different classes of members in a guarantee company. There may be non-voting members, for example, or members who have restricted rights in some other way. In a sports club, for example, there may be junior members (those under a certain age) who cannot vote, or social members, who pay a lower subscription but cannot use the sports facilities.

**Directors**

A company limited by guarantee, as a private company, must have at least one director. Most guarantee companies have several. The directors may be given some other title, such a committee, management committee, board of managers, trustees, or governors. Whatever title they may be given, if they are in day to day control of the company they are, in law, directors of that company. Their powers will depend on the terms of that particular company's articles, but typically they are given very wide powers of management. Just as in a company limited by shares, these powers are conferred on the directors collectively, when they are sitting as a board and passing resolutions for the management of the company. They may, of course, set up sub-committees, etc. and delegate powers to them, and may give particular directors special responsibilities, such as treasurer, membership secretary, etc.

In some companies, some or even all the directors may be appointed by one or more outside bodies, such as charities or local authorities who are backing the project. Some directors may be elected by particular interest groups.

**No share capital**

The fact that a company limited by guarantee cannot have a share capital limits its fund-raising capacity, simply because it cannot issue shares to those who back it and join it. For this reason, some projects that are not essentially profit-motivated are set up as

companies limited by shares. Many such companies impose subscriptions and/or a joining fee. A guarantee company can borrow money and may issue debentures or debenture (loan) stock.

As there are no shareholders, it is not possible to own a company limited by guarantee in the way that a company with a share capital is owned by its shareholders. The members of the guarantee company control it, in the same way as shareholders control a share company, but they do not have any shares or other security in the company that they can sell to another.

**'Not for profit'**

A company limited by guarantee is not prohibited from distributing its profits by the Companies Act or any other law, but it is commonplace for restrictions to be put on profit distribution in the company's articles. Such restrictions will usually apply both to profits while the company is running and to the distribution of assets (after paying creditors) when the company is wound up. In many cases, but by no means all, these restrictions are reinforced by a prohibition on any payment of salaries or fees to the directors.

**Exemption from having 'Limited' at the end of the name**

A not for profit company limited by guarantee can be exempted from having the word 'Limited' (or 'Ltd') at the end of its name if it is set up for certain objects. These are the promotion of commerce, art, science, education, religion, charity or any profession.

**Community Companies limited by guarantee**

The majority of not-for-profit companies and incorporated social enterprises are limited by guarantee. Companies which are registered as charities with the Charity Commission, for example, cannot be limited by shares and must be limited by guarantee.

Even where there is no requirement for a company to be limited by guarantee, it is still commonplace for incorporated social enterprises to be so. Generally speaking, this is because of the fact that shares are associated with profit and, in particular, the individual shareholder's ability to take profit out of a company, for personal gain, in the form of dividends. As most social enterprises exist to benefit a community or charitable cause rather than to make money for the people who run them, such a constitutional form is sometimes seen to be incongruous to the overall aims of the business, and the guarantee model is in turn seen as providing a more suitable framework. Of course, this is not to say that every worthwhile social enterprise has to be limited by guarantee: many CICs, for example, are limited by shares and find this an essential means of garnering investment which can then help them in the pursuit of their objects..