

## FOCUS

**The Three Musketeers of AKA, Advancing over Time for the Neighbourhood**  
 Interview with Ir William Chan, JP, Chairman of Social Service Management Committee,  
 Aberdeen Kai-fong Welfare Association Limited

The Aberdeen Kai-fong<sup>1</sup> Welfare Association Limited (AKA) was founded in 1950. Its social service arm, AKA Social Service (formerly known as “Aberdeen Kai-fong Welfare Association Social Service Centre”), was later established in 1976 with the mission to “promote mutual concern among neighbours, nurture the youths and serve the community”, and the belief in “care, helpfulness, accessibility, reliability, and mutuality”. The organization has long been rooted in the Southern District, offering diversified social service to the neighbourhood.

Ir William Chan has been serving on AKA’s Executive Committee (ExCo) since 1987. He was the ExCo Chairman from 2001 to 2007, and is now the Chairman of the Management Committee of AKA Social Service. Ir Chan got in touch with AKA when he moved into the district and his wife registered their family as a member of AKA’s community centre for joining its activities. From a service user to ExCo member, Ir Chan has taken part in steering the advancement of AKA over the past thirty years.

In the 1950s, many kai-fong welfare associations were set up in different districts under the support of the government, all bearing the four mottos to “give mutual help, share joys and sorrow, show support at difficult time, make changes in customs and traditions”.<sup>2</sup> These associations provided services such as education and medical support for the poor in their neighbourhoods. When Ir Chan joined the ExCo, he felt that AKA must evolve from the traditional mode and culture of kai-fong welfare associations to suit the society’s changing needs in order to maintain its competitive edge.

Ir Chan said that, in recent years, the ExCo has brought in corporate governance culture to AKA, upholding the values of fairness, justice and openness in their leadership. For stakeholders to be aware of AKA’s transformation, the organization reconstructed its image and brand in 2012 with a more precise agency name and new logo. The identity of “Aberdeenians” was also strengthened to illustrate the characteristics of AKA’s ExCo and staff members – having clear goals, client-oriented, committed to the principles of corporate governance, pragmatic, seeking continuous improvement, dedicated to providing quality services through community development approach and integrated social service mode.

To keep up with the times, Aberdeenians have to keep learning. Ir Chan himself is a role model as he believes that “There is no limit in learning. One should learn as long as he lives.” In the past few years, Ir Chan actively participated in governance related activities organized by HKCSS, networking with other agencies’ directors. As an engineer, he is clear about the importance of information technology to social service organizations and enrolled AKA in the Council’s “Information Technology Governance Advisory Service”,<sup>3</sup> where volunteer IT advisors provided solutions after assessing the organization’s needs. AKA’s ExCo finally accepted and allocated resources to implement the recommended enhancement. The ExCo also joined the “NGO Governance Health Survey 2018”<sup>4</sup> to have a self assessment. The result was encouraging and reflected AKA’s persistence in good governance.

The size of AKA Social Service’s staffing team was increased from 8 employees in 1970s to over 350 now. As the organization scaled up, it was not easy to align different stakeholders. Ir Chan described AKA’s ExCo, staff, and beneficiaries as the “Three Musketeers”. The spirit of the “Three Musketeers” is to “face challenges, strive for innovation”, representing how AKA engages professionals and neighbours to develop quality services.

Ir Chan has passed on the values of Aberdeenians to his son who has also joined AKA’s ExCo. The father-and-son duo inherited the sense of belonging for AKA, infusing the organization with new blood for rejuvenation, becoming more modernized, technological, and professional. The two generations are going hand-in-hand, innovating on the basis of AKA’s traditions, serving the kai-fongs of the Southern District with hearts.



Ir Chan (1<sup>st</sup> from the right) observing at the “eHealth” station



Ir Chan (5<sup>th</sup> from the right) chairing meeting

<sup>1</sup> Kai-fong is the Cantonese saying for “members of the neighbourhood”.

<sup>2</sup> The Aberdeen Kai-fong Welfare Association Limited. (1990). 40<sup>th</sup> Anniversary Commemorative Publication.

<sup>3</sup> “Information Technology Governance Advisory Service” <https://governance.hkcss.org.hk/node/234>.

<sup>4</sup> “NGO Governance Health Survey 2018” <https://governance.hkcss.org.hk/node/362>.

# GOVERNANCE IN ACTION

## Governance of NGOs in Different Legal Forms

Organizations exist in various forms and legal status in the nonprofit sector in Hong Kong. Nonprofits are commonly referred to as non-governmental organizations (NGOs) locally, although not all NGOs are necessarily “not-for-profit”. Likewise, not all nonprofits are recognized as “charities” with tax-exemption status by the Inland Revenue Department (IRD) pursuant to section 88 of the Inland Revenue Ordinance.<sup>1</sup> Names of NGOs often reflect the nature of their organization or the form of legal establishment, for example, “social enterprise”, “association”, “foundation”, and “society”, etc.

### Legal Forms of NGOs

NGOs may be established pursuant to different ordinances that they find most suitable for their operational needs. The most common legal forms can be categorized as follows:

- 1. Society** – registered under the Societies Ordinance (Cap 151). This is more common for clubs or associations that are relatively small.
- 2. Company** – incorporated under the Companies Ordinance (Cap 622). Many charities are companies limited by guarantee where the members have pre-determined limited liability, while some NGOs which allow profit distribution or their capital and voting rights are divided by shares, would normally be incorporated as companies limited by shares.
- 3. Statutory Body** – established by the Hong Kong legislation. NGOs in this category usually have a long-standing history. For example, the Scout Association of Hong Kong Ordinance (Cap 1005) was enacted in 1927 to incorporate the Scout Association of Hong Kong. New NGOs are rarely set up as statutory bodies nowadays in ordinary cases.
- 4. Trust** – a trust company is registrable under the Trustee Ordinance (Cap 29) and individual trustees may be incorporated under the Registered Trustees Incorporation Ordinance (Cap 306). A trust is a fiduciary arrangement (not a legal entity) that allows the trustee(s) to hold assets on behalf of certain beneficiaries.

In this article, we will examine the two most prevalent forms of establishment for NGOs, namely societies and companies, to better understand their respective compliance requirements. While limited companies can be established either by guarantee or by shares, we will only focus on companies limited by guarantee, as it is the form of company that is commonly acceptable by the IRD for granting tax-exemption status.

### Society vs. Company

	Society <sup>2</sup>	Company Limited by Guarantee <sup>3</sup>
<b>Legislation</b>	the Societies Ordinance (Cap 151) (SO)	the Companies Ordinance (Cap 622) (CO)
<b>Responsible Government Department</b>	Police Licensing Office	The Companies Registry (CR)
<b>Requirements on Constitutional Document</b>	Registration documents such as constitution, articles of association or minutes of a meeting are needed to establish the society and show its objects and purposes	Articles of Association (AoA) with mandatory provisions. The company may opt to adopt any or all of the provisions of the Model Articles provided under Cap 662H as the provisions of its own AoA
<b>Legal Status</b>	Unincorporated body (no separate legal status)	Incorporated body (separate legal entity)
<b>Liability of Members</b>	Depending on circumstances, members may be personally liable without limit	Liability of members is limited by the AoA to the amount that the members respectively undertake to contribute to the assets of the company in the event of its being wound up

<sup>1</sup> Inland Revenue Department. (2019). Tax Guide for Charitable Institutions and Trusts of a Public Character.

<sup>2</sup> Police Licensing Office. (2018). Guidance Notes - Application for Society Registration/ Exemption from Society Registration Under Societies Ordinance, Cap. 151.

<sup>3</sup> The Companies Registry. (2017). Incorporation of a Local Limited Company. (Pamphlet)

# GOVERNANCE IN ACTION

	Society <sup>2</sup>	Company Limited by Guarantee <sup>3</sup>
<b>Liability of Office-bearers / Directors</b>	Must fulfill the statutory obligations under the SO and the fiduciary duties of office-bearers under common law	Must comply with directors' duty of care, skill, diligence under section 465 of and all other statutory obligations under the CO, as well as other fiduciary duties under common law
<b>Number of Responsible Persons Required for Registration</b>	3 office-bearers	At least 2 directors who must be individuals
<b>Company Secretary</b>	No requirement	Must appoint a natural person or body corporate in Hong Kong
<b>Annual Return</b>	No requirement	Prescribed form with particulars of the company, including the address of the registered office, directors, company secretary, etc.; and certified true copies of the financial statements including directors' reports and auditors' report within the required timeline stipulated in the CO
<b>Other Requirements</b>	An application form for change of particulars shall be submitted within one month from the change	The company must comply with other filing and non-filing obligations, <sup>4,5</sup> under the CO, otherwise the responsible persons may be subject to a fine or imprisonment

The table above summarizes the major differences between the two forms of legal establishment. In a nutshell, the registration process and the compliance requirements for societies, as compared to companies limited by guarantee, are much simpler. Because of its stringent compliance requirements, limited companies lay down a more solid foundation for governance and urge for a board of directors with considerable expertise. A limited company's independent legal status may provide ease in certain business transactions (e.g. opening bank account, leasing office) and gives protection to their members; whereas the office-bearers of societies may bear more personal risks and responsibilities, given that there is no limit on their liabilities prescribed under the SO.

## Good Governance and Directors' Duties

Overall speaking, societies may be more suitable for small NGOs carrying very low risk activities, where legal liability may be very unlikely to incur against the office-bearers and members of the society. The legal form of limited companies may be preferred by NGOs whose activities are subject to government license, legal requirements or contractual obligations, or where their members and directors may otherwise be exposed to personal liability. Yet it is important to note that, while companies as legal entities have limited liability, board members and other responsible persons of the organization may still be legally responsible for their illegal acts or negligence. Failing to perform their duties as board members or commitment of any offence may be personally subject to a fine or imprisonment. For this reason, the CR has a Guide on Directors' Duties<sup>6</sup> to facilitate board members to comply with their duties. On top of that, all board members or office-bearers, including those of societies and other legal forms, also bear fiduciary duties as an organization's representatives under common law.

All in all, NGOs should decide on a legal form that is most suitable for their operation having assessed the potential legal risks in associate with their activities. Notwithstanding the legal form that an NGO chooses, good governance is still the basis of accomplishing its mission. Agencies' dedication to uphold governance principles should always be above mere compliance.

<sup>4</sup> The Companies Registry. (2019). Basic Filing Obligations of a Guarantee Company under the Companies Ordinance (Cap.622).

<sup>5</sup> The Companies Registry. (2019). Basic non-filing Obligations of a Guarantee Company under the Companies Ordinance (Cap. 622) and Companies (Disclosure of Company Name and Liability Status) Regulation (Cap. 622B).

<sup>6</sup> The Companies Registry. (2014). A Guide on Directors' Duties.

# UPCOMING ACTIVITIES

## NGO Directors' Luncheon

The 13<sup>th</sup> event of the "NGO Directors' Luncheon" series has invited Mr Gordon Leung JP, the new Director of Social Welfare, to attend and share on his views regarding NGOs' governance and his Department's partnership with the welfare sector.

Details as follows:

Date	18 December 2019 (Wednesday)
Time	12:30pm - 2pm (registration starts at 12:15pm)
Format	Light lunch and theme sharing
Language	Cantonese
Venue	PwC, 21/F, Edinburgh Tower, The Landmark, 15 Queen's Road Central

For event details and enrolment, please visit: <https://governance.hkcss.org.hk/node/388>.

## Induction Workshops for NGO Directors 2020

Co-organized again with Governance and Management for Excellence for Public Benefit, the two-session program aims to equip new directors and committee members with better understanding of the sector and their roles and responsibilities as NGO governors.

Details as follows:

Date	18 January and 8 February 2020 (Saturdays)	
Time	9:30am-12:45pm (registration starts at 9:15am)	
Themes	<b>Session 1</b> a) Understanding the NGO Sector and its Governance b) Board's Role in Strategic Planning	<b>Session 2</b> a) Board-Management Partnership b) Board's Oversight in Agency Accountability and Transparency c) Priority Setting in Enhancing Governance Practices
Targets	NGO Board and committee members with service not more than 5 years, priority will be given to those enrolling for two sessions	
Fee	HK\$100 (for either session), HK\$150 (for both sessions)	
Venue	Duke of Windsor Social Service Building, 15 Hennessy Road, Wanchai	
Language	Cantonese (materials in English)	

For event details and enrolment, please visit: <https://governance.hkcss.org.hk/node/389>.

# SNAPSHOTS



## Seminar on Staff Salary Policy & Practices for Non-subsidized Organizations

The Seminar was held on 29 August 2019. The speakers, Dr Liliane Chan (left), Mr Weymond Lam (middle) and Dr Vivian Wong (right) shared on the principles and considerations for NGOs to develop their staff salary policies and practices.



## NGO Treasurers' Club Dialogue Series

Co-organized with Hong Kong Institute of Certified Public Accountants (HKICPA), the first session themed "Understanding Management Accounts for Decision Making" of the NGO Treasurers' Club Dialogue Series was held on 27 September 2019. There were interactive discussions among the participants and Accountant Ambassadors of HKICPA on the topic. The 2<sup>nd</sup> and 3<sup>rd</sup> sessions of the series will be held on 8 and 15 January 2020 respectively. For further information and registration, please visit: <https://governance.hkcss.org.hk/node/371>