

Characteristics of Different Legal Structures

	UNINCORPORATED GROUP	INCORPORATED SOCIETY	REGISTERED CHARITABLE TRUST (SOCIETY BASED)	REGISTERED CHARITABLE TRUST (TRUST BASED)
Best suited for	One-off situations, informal groups and clubs	Not-for-profit groups and clubs – particularly membership or volunteer based groups – especially smaller groups with community links	Good for most not-for-profit groups with a charitable purpose	Not-for-profit organisations with a charitable purpose – especially where the initial trustees want to maintain control and succession
Legalisation	None	Incorporated Societies Act 1908	Charitable Trusts Act 1957	Charitable Trusts Act 1957
Minimum number of people required	Two individuals	15 individuals, five corporate bodies, or a mix of both (corporate bodies count for three people)	5 individuals or existing society	Two or more trustees
Decision making	By members at general meeting/by committee	By members at general meeting/committee	By members at general meeting/by board	By trustees/trust board
Liability of members/trustees	Personal Liability of members	In general, limited personal liability, provided decision makers act prudently and within the group's purpose and, if charitable, not for personal gain		
Reporting requirements	None – unless registered under the Charities Act 2005	Registrar of Incorporated Societies requires: <ul style="list-style-type: none"> • changes of rules and office • annual financial statements (unless registered under the Charities Act 2005 with the Charities Commission)* 	Registrar of Incorporated Societies requires: <ul style="list-style-type: none"> • changes of rules and office • If registered with the Charities Commission you will also need to complete their reporting requirements* 	Registrar of Incorporated Societies requires: <ul style="list-style-type: none"> • changes of rules and office • If registered with the Charities Commission you will also need to complete their reporting requirements*
	* All organisations registered with the Charities Commission need to file an annual return (including annual accounts) and notify them of any changes to rules and office. (ALSO SEE ADDITIONAL FLOW CHART ON NEXT PAGE REGARDING REPORTING REQUIREMENTS)			
Disposal of assets on liquidation	Surplus assets can be distributed among members unless charitable status, or other tax-exempt status applies	Surplus assets can be distributed among members unless charitable status, or other tax-exempt status applies	Surplus assets must be passed on to other charitable organisations	Surplus assets must be passed on to other charitable organisations
Advantages	No external reporting requirements (unless has charitable status with the Charities Commission) Informal structure, with few rules or restrictions	Democratic, membership-based organisation structure Easy, efficient structure for non-profit organisations (particularly smaller ones)	Provides a better framework for governance/management than incorporated societies (especially in larger, more complex groups) Only requires five individuals to incorporate Charitable status and limited liability of members/trust board	Keeps control in a few hands (the trustees), while enjoying limited liability. This provides longer term stability
Disadvantages/limitations	Members may be liable for the debts of the group Not a separate legal entity Not recommended for on-going groups, where groups are employing staff or receiving external funding	Finding (and maintaining) 15 members may be a problem Risk of committees being overturned (at the AGM) which may lead to short-term decision making and limited succession planning (this can be addressed in the rules though) Not suitable for groups with a commercial purpose	Groups need to have a charitable purpose and cannot distribute profits to members The distinctions between the different types of charitable trusts can be confusing	Control is with the trustees – there is no accountability to a wider membership base Trustee succession planning is usually by director appointment The distinctions between the different types of charitable trusts can be confusing
Eligible for tax exemption?	Groups are only eligible for tax exemption if they are a registered charity with the Charities Commission. If your group is not a registered charity with the Charities Commission you will need to speak to the IRD directly about the possibility of obtaining tax exempt status.			

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Reporting Requirements Summary

