

Formal Organisational Structures

Once your group is established and its purpose is clear, it may be appropriate to formalise or legalise its structure.

For existing groups – if you are not sure what structure your group is, it is easy to search at www.societies.govt.nz or www.charities.govt.nz to determine if you are listed and what your group structure is. You can also obtain a copy of your group's rules or trust deed from these sites.

ADVANTAGES TO SETTING UP A FORMAL ORGANISATIONAL STRUCTURE

- There is a formal document (deed/constitution) setting out what the group does and how it will do it;
- Access to a wider range of grants, donations, contracts, & loans;
- Better credibility and accountability;
- The potential to benefit from exemptions from income tax, resident withholding tax, and gift duty;
- Prevention of people being personally liable for the group's debts.

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TYPES OF ORGANISATIONAL STRUCTURES

Different types of legal structures are suited to different organisations, depending on the goals or activities of the organisation, and how many members they have.

For an overview of all the characteristics of different legal structures, and their reporting requirements see Information Sheet 6a.

The most common formal structures/legal entities for not-for-profit charitable groups are incorporated societies and charitable trusts.

INCORPORATED SOCIETIES

Best for Not-for-Profit groups and clubs - particularly membership or volunteer based groups

- minimum of 15 individuals or 5 corporate bodies, or a mix of both;
- can make profits and employ people, but profits may not be distributed to its members;
- income is taxed, but can be eligible for a variety of tax exemptions.

SETTING UP AN INCORPORATED SOCIETY

See Information Sheet 6b for all the steps on setting up an Incorporated Society.

CHARITABLE TRUSTS

A charitable trust set up is suitable for most not-for-profit charitable groups, but there are different types of charitable trusts to choose from:

1. Unincorporated Charitable Trust – best for one off events/fundraisers, not recommended for ongoing groups and projects.
2. Registered Charitable Trust (Trust Based) – minimum of 2 trustees, best for not-for-profit groups with a charitable purpose where the initial trustees want to maintain control. This is the most commonly used Charitable Trust.
3. Registered Charitable Trust (Society Based) – minimum of 5 people or established society, best for most not-for-profit groups with a charitable purpose.

CHARITABLE TRUST CRITERIA

Trusts or societies registered as charitable trusts must act exclusively or principally for charitable purposes which are:

- a) The advancement of education, & or
- b) The advancement of religion, & or
- c) The relief of poverty, sickness, or disability & or
- d) Any other purpose that benefits the community*

These charitable purposes are the same for charities who have registered with the Charities Commission.

*If your organisation's purpose falls under this category you must also be able to demonstrate "public benefit" – i.e. that this benefit is recognised by law as beneficial or benefits a significant section of the public.

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SETTING UP A CHARITABLE TRUST

To become a Registered Charitable Trust, your group must complete an application with the Companies Office.

See Information Sheet 6c for all the steps on setting up a Registered Charitable Trust.

Important note

A charitable trust is a charitable organisation but is not automatically a registered charity with the Charities Commission (and therefore eligible for tax exemption and other benefits). Once you are a registered charity with the Companies Office, you must apply to the Charities Commission separately to become a registered charity.

See Information Sheet 7 for more information on the Charities Commission and how to apply.

Information prepared by



COMMON QUESTIONS

Q. What do we do if our registration has lapsed over the years, and we have been "struck off" the registrar for incorporated societies?

A. You can be reinstated on the Registrar and will need to pay a fee, fill in a form, and provide a copy of updated rules and/or returns if required. Go to www.societies.govt.nz for all forms and information.

Q. We are a sub committee of our local council Community Board, tasked with looking after our community centre. Do we need to be a separate legal entity?

A. It will depend on your facility, and what your plans are. Some community funders require you to be your own legal entity. Contact your Venture Southland Community Development Planner (see contact details below) for more information and assistance.

LINKS / WHERE TO GO FOR MORE INFORMATION:

www.societies.govt.nz

www.charities.govt.nz

www.ird.govt.nz

*For more information or help you can also contact your local Community Development Planner at Venture Southland:
143 Spey Street, Invercargill
Ph: 03 211 1400
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www.southlandnz.com*