LEGAL STRUCTURE FOR YOUR GROUP - A TABLE TO COMPARE THE DIFFERENT TYPES OF LEGAL STRUCTURES AND THEIR CHARACTERISTICS [From CommunityNet Aotearoa - https://community.net.nz/]

	Unincorporated group	**Incorporated society**	**Registered charitable trust (society-based)**	**Registered charitable trust (trust-based)**	**Company**	**Industrial and provident society**	**Māori land trust**
Legislation	None	Incorporated Societies Act 1908	Charitable Trusts Act 1957	Charitable Trusts Act 1957	Companies Act 1993	Industrial and Provident Societies Act 1908	Te Ture Whenua Māori Act 1993
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	One or more shareholders	Seven individual members	Trustees
Decision-making	By members at general meeting/by committee	By members at general meeting/by committee	By members at general meeting/by board	By trustees/trust board	By directors/ shareholders at AGM	By members at general meeting/by committee	By trustees
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 (specific provisions apply to company directors and Māori land trust trustees)				
Reporting requirements	None unless registered under the Charities Act 2005	Registrar of Incorporated Societies requires: changes of rules and office annual financial statements (unless registered under the Charities Act 2005)	Registrar of Incorporated Societies requires: changes of rules and office	Registrar of Incorporated Societies requires: changes of rules and office	Companies Office requires: annual return and changes of name, office, rules and directors	Registrar of Industrial and Provident Societies requires: annual return	Registrar of the Māori Land Court requires: annual financial statement and changes of trustees
	All organisations registered under the Charities Act 2005 (also known as charitable entities) need to file an annual return (including financial statements) with Charities Services and notify changes to the name, address, balance date, rules, purposes, or officers of the charity to Charities Services.						
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	Surplus assets can be distributed among shareholders unless charitable or other tax-exempt status applies	Surplus assets can be distributed among members unless charitable or other tax-exempt status applies	As the court directs, or to beneficial owners or successors

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 strong 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	Good for groups with a commercial purpose (such as a community business)	Good for co-operatives, generally with a business/ commercial purpose (such as craft or workers–co-ops)	Only for Māori land owners or shareholders of corporations
Advantages	No external reporting requirements (unless the group is seeking tax benefits or charitable status) 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 (but may lead to staleness/ stagnation)	Easy to set up Useful where the group has some commercial activities (such as a community enterprise) Keeps control in a few hands (the directors), while enjoying limited liability Often easier to obtain loans (but this may require personal guarantees from directors)	Profits can be distributed to members (unless the group has charitable status)	Protection of land from alienation Strong shareholder participation
Limitations/ disadvantages	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 annually (at AGM) which may lead to short-term decision-making and limited succession planning (note this can be addressed in the rules) 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 Trustee appointment The distinctions between the different types of charitable trusts can be confusing	Generally too complex for charitable community organisations Reporting requirements are more complex than other structures Directors may be liable if they fail to meet their obligations	Not suitable for broad membership-based organisations Because they are quite rare, many accounting and legal professionals may not fully understand how they work	Not suitable for commercial enterprises Can be cumbersome to operate due to the wide shareholder participation