

**FRIENDS GROUPS GUIDANCE**

**Types of legal structure**

**Unincorporated association**

This has no legal corporate status. There is no prescribed structure, no need to obtain approval and no need to register with any regulatory body unless your aims are charitable.

If you charge a membership fee you will have to keep a membership list but if not there is no requirement to do so.

You may draw up a constitution with rules governing the running of the group. There is no requirement to submit it to any outside body for approval and you have a free hand in how you constitute the group. A basic generic constitution is attached at pages 4 to 6.

If your aims are charitable then you are deemed a charitable unincorporated association.

**Advantages**

* This structure is simple and flexible. You do not need to have your constitution approved by any outside body.
* An unincorporated association is cheap to run. If your aims are not charitable, and you don’t get any grant funding, you won’t need to submit accounts or reports to anyone outside your group.
* If your aims are not charitable, you have no obligation to any regulatory body and there are no particular rules about how you should run your group (so long as your activities are generally lawful).

**Disadvantages**

* Your group has no discrete legal existence – it is nothing more than a grouping of individuals.
* You cannot hold funds of your own.
* Public bodies cannot delegate functions to you.
* Some donors will only give money to charities.
* Your members may be personally liable for obligations and liabilities (including debts) and therefore personally exposed to legal action.
* It may be difficult to obtain insurance for public liability and for the protection of members against legal action.
* You will not be able to enter into contracts or leases or own property as a group.

**Charitable unincorporated association**

If your group is unincorporated but its aims are charitable and for the public benefit, you will be deemed a charitable unincorporated association. If your income is less than £5,000 a year then you will not need to register with the Charity Commission. If it exceeds £5,000 you will need to register and you will have to submit a report and your accounts to the Charity Commission every year. If the annual income is under £25,000, the administrative burden of reporting to the Charity Commission is fairly light and you won’t need to have your accounts audited (unless there is a suspicion of irregularities).

The Charity Commission has a model constitution for a [charitable unincorporated association,](https://www.gov.uk/government/publications/setting-up-a-charity-model-governing-documents) which is available on its website. It is necessary to set out legally charitable aims in the constitution.

**Advantages**

* Your status as a charity will likely make you more attractive to funders and fundraisers.
* Some grant funds are only open to registered charities.
* Relatively cheap and straightforward to start and operate.

**Disadvantages**

* As a group with no discrete legal existence, you have the same disadvantages of any other unincorporated association.
* For charities with an income of more than £5,000 there is the burden of registration and reporting requirements.
* You are subject to Charity Commission guidelines on political and campaigning activities.

**Charitable trust**

These are similar to unincorporated associations in that they don’t have their own legal existence. However, it differs from unincorporated associations in that has trustees and not members. This means that actions taken by a charitable trust are the responsibility of the individual trustees. The trustees make all the decisions and have all the responsibility.

A charitable trust is not a membership organisation but is run by a small group of people, known as trustees. It is set up by means of a trust deed. A trust is usually set up to manage money or property for a charitable purpose.

The aims of the trust must be charitable and the trust will need to register with the Charity Commission if it has an income over £5,000 per year. The Charity Commission published a model trust deed, which you can use and adapt whether or not you are registered with it.

**Advantages**

* It is fairly cheap to establish and there is no registration fee unless your income is more than £5,000.
* It is fairly simple to set up especially as you can use the Charity Commission’s model trust deed.
* The trustees have control, which may make decision making easier and more flexible.
* Charities are recognised publicly as being for the wider good and this will make you more attractive to donors.
* Some funders will give grants only to registered charities.

**Disadvantages**

* You will have to draw up annual accounts comply with reporting requirements. If you have an income or more than £5,000 a year you will have to register with the Charity Commission and send it a copy of your annual accounts.
* As with other unincorporated associations you will have no discrete legal existence so you will have all the disadvantages that they have.
* Control of the trust’s activities is centralised with the trustees, so this does not lend itself to a broad membership driven organisation.
* The Charity Commission imposes conditions on what charities can do in respect of political activities and campaigning. This can have particular implications in holding local authorities to account.

**Charitable Incorporated Organisation**

These have their own legal personality, so they have the important advantages of protecting members and shareholders from exposure to personal liability and enabling the organisation to enter into leases and contracts. However, they are subject to more formal rules and regulatory requirements but are also relatively easy to set up because they generally adopt widely used and easily accessible constitutions. The Charity Commission has published a model constitution, which is attached.

**Advantages**

* Discrete legal personality so trustees are not generally exposed to personal liability unless the trustees breach their trustee duties.
* The CIO can enter into contracts and leases and have their own bank accounts.
* You only need register with the Charity Commission and not with Companies House, so you only have one regulator.
* It is quite easy to set up as you have to adopt one of two model constitutions.
* Charities are recognised publicly as being for the wider good and this will make you more attractive to donors.
* Some funders will give grants only to registered charities.
* Relatively easy requirements for communications with members compared to charitable companies.

**Disadvantages**

* You will have to draw up annual accounts comply with reporting requirements. If you have an income or more than £5,000 a year there is a greater reporting burden.
* Control of the trust’s activities is centralised with the trustees, so this does not lend itself to a broad membership driven organisation.
* Your constitution has to follow certain rules prescribed by the Charities Act 2011.
* Your organisation is less flexible: you have to adopt and follow charitable objects and it can be difficult to change your constitution.
* The Charity Commission imposes conditions on what charities can do in respect of political activities and campaigning. This can have particular implications in holding local authorities to account.
* Trustees are not wholly immune to personal liability.

**Other Incorporated legal structures**

There are various types: charitable company (limited by guarantee or by shares), community interest companies and a couple of other less commonly used structures. Charitable companies have to be registered with both the Charity Commission and Companies House so they take more work than a Charitable Incorporated Organisation.

The biggest advantage of incorporated legal structures is that, as they have their own legal personality, shareholders and directors are not exposed to personal liability, except in certain circumstances such as when they guarantee loans or where they continue to operate the company when it is insolvent.

The other main advantage of incorporated legal structures is that they can enter into contracts, buy or lease property, and employ people.

Accessible guidance and model constitutions for all of the different types of incorporated organisations are readily available online.

This note is not legal advice.