

Adopting a Legal Structure

This legal information is for people who are thinking about setting up (or have just formed) a new non-profit organisation in Singapore. A general overview is provided below but this may be an issue on which your non-profit organisation may want to seek specific legal advice.

Before proceeding further, count the number of people in your non-profit organisation.

If you are a non-profit organisation with 10 or more persons (including any overseas employees), it is compulsory for you to have a legal structure. Click [here](#) to for more information on the types of legal structure available.

If you are a non-profit organisation with less than 10 persons, it is not compulsory for you to have a legal structure. The following information provides a general overview of the pros and cons of having a legal structure for you to best decide whether you should have a legal structure.

Why should you have a legal structure?

All non-profit organisations will have some kind of structure, that is, arrangements between the people in the non-profit organisation about how it operates. These arrangements may include things like:

- how the non-profit organisation makes decisions;
- what kind of activities the non-profit organisation undertakes; and
- how the non-profit organisation manages money.

There are a number of formal legal structures possible for non-profit organisations. If non-profit organisations arrange themselves into one of these formal legal structures, and then register their non-profit organisation with the government their non-profit organisation becomes recognised in its own right by government, courts, other businesses and the public.

What are the benefits of having a legal structure?

There are a number of benefits that come with having a legal structure.

Tax Benefits

If it is important for your non-profit organisation to be tax exempt then you should consider becoming a charity (also known as a Institution of Public Character). Only a non-profit organisation that has adopted a legal structure will be allowed to register as a charity under the Charities Act.

If it is important to give your donors tax deductions then you should register as an Institution of Public Character which also requires a legal structure.

Perpetual succession

A non-profit organisation which has adopted a legal structure has a legal identity separate to that of the people involved in the non-profit organisation. This means that it will continue to exist (and be recognised by the government, courts, businesses and the public) even when membership of the non-profit organisation changes. This is known as 'perpetual succession'. In general a non-profit organisation with a legal structure will last forever, or until it is deregistered or 'wound up'.

What responsibilities do you have to fulfil by adopting a legal structure?

While there are benefits to adopting a legal structure being a non-profit organisation with a legal structure also comes with responsibilities it has to comply with.

Your non-profit organisation should consider whether it is able and willing to meet these expectations. Such expectations include:

- organizing meetings;
- keeping proper financial records; and
- having certain information (i.e. names of certain office holders) about the organisation publicly available.

There are specific requirements for each type of structure. Click [here](#) for more information. Whatever structure your non-profit organisation may choose, it is very important to ensure that everyone is willing to comply with the responsibilities that come alongside the benefits.

What should you consider when deciding if you should have a legal structure?

Deciding whether or not to adopt a legal structure is a decision about assessing risk – you may want to seek legal advice on this decision.

Remember that if you are a non-profit organisation with 10 persons or more you are required to have a legal structure (society, company limited by guarantee or a trust). Click [here](#) for more information on the types of legal structure available.

If your non-profit organisation is under 10 persons and decides not to adopt a legal structure it should regularly review its position at least every year or when there is a significant change (for example, upon employing a paid staff member). Also, if your non-profit organisation grows and wants to take on further activities or seek funding, it may wish to re-consider the decision about adopting a legal structure.

You should think about the activities your non-profit organisation does now and the activities it is likely to undertake in the future when making the decision to have a legal structure.

The following list may help you to consider just some of the relevant issues. If you answered "yes" to any of these questions, you may want to consider taking on a formal legal structure.

A. Possible liability for debts or civil legal actions

1. Will the activities involve risks where someone - a non-profit organisation member, a volunteer, employee, client or member of the public - could get hurt (e.g. outdoor activities, the use of equipment, activities involving food or alcohol, protest or campaign activities)?
2. Will your non-profit organisation be entering into an agreement or contract where the non-profit organisation will owe money (e.g. buying equipment, leasing property, taking out a loan or credit)?
3. Will your non-profit organisation be hiring employees or independent contractors?
4. Is it possible that your non-profit organisation may need to take legal action against another party and may have legal costs awarded against it (e.g. a campaign or advocacy non-profit organisations)?

Having a legal structure is one way to protect your non-profit organisation's board or committee members from certain legal issues, depending on the type of legal structure adopted. Of course, having adequate insurance and a risk management plan is always advisable.

B. Ownership of goods, equipment and property

1. Will your non-profit organisation own land or buildings?
2. Will your non-profit organisation need to own or lease equipment - photocopiers, cars, office furniture?
3. Will your non-profit organisation own shares or other assets or significant amounts of money?

C. Reputation / seeking grants or funding opportunities

1. Will your non-profit organisation be looking for funding through grants from government or other private philanthropic funders?

2. Will your non-profit organisation need insurance? Will your non-profit organisation be looking to attract members to its committee of management?
3. Will your non-profit organisation be looking to hire employees?

Having a legal structure means that the non-profit organisation officers (for example, a secretary and a treasurer etc.) work according to rules, hold meetings and provide financial information to government. Often this formal legal structure may work to enhance the reputation of your non-profit organisation. Your non-profit organisation should check the eligibility requirements of any groups that it may seek funding from to see whether adopting a legal structure is a requirement. Many government bodies and private groups that provide funding to non-profit organisations only fund non-profit organisations who adopt a legal structure.

There may also be other requirements to receive funding. However often adopting a legal structure is a minimum requirement.

I don't want a legal structure, now what?

Some of the benefits of not adopting a legal structure are:

- informality: the non-profit organisation can remain informal and does not have to hold meetings in a specific format (although it still can have rules or a constitution to govern these matters);
- privacy: the non-profit organisation does not have to register with government or tell government or the public about who its members are or what its financial situation is; and
- reduced administrative costs: the non-profit organisation does not have to pay any registration or annual fees to government.

Not adopting a legal structure will not prevent the non-profit organisation from carrying on its day-to-day activities in the same way that a non-profit organisation with a legal structure might. Your non-profit organisation can still have a formal set of operating rules (a constitution), hold meetings and issue statements about its financial dealings. It can also take out insurance to try to protect it from possible liability (although insurance may be more difficult to get).

Also, non-profit organisations that do not adopt a legal structure will still have legal obligations and will need to comply with employment law, occupational health and safety law, tax law and a range of other laws that apply to all non-profit organisations regardless of whether they adopt a legal structure or not.

In fact, many people in the community will not be able to see any difference between a non-profit organisation that adopts a legal structure and one that does not. However, be aware that while both non-profit organisations may look the same from the outside, the way the law treats organisations with a legal structure vastly differs from organisations without a legal structure.

How do I choose a legal structure?

If your non-profit organisation decides to have a legal structure or if you are required to have a legal structure the next decision is to choose a structure that suits your non-profit organisation's aims and activities. There are a number of [legal structures](#) that are available for non-profit organisations in Singapore.