Factsheet 8: Comparing Community Companies with Charitable Trusts and Co-operatives

WHAT IS A CHARITABLE TRUST, A COOPERATIVE AND A COMMUNITY COMPANY?

Each of these options is available in Solomon Islands. This is only a basic guide to inform members of the public of different types of structures that may work for communities. It is not legal advice and is not an official document of the Solomon Islands Government or the Asian Development Bank.

Charitable Trusts

- They must have a **charitable purpose**, the purpose cannot be for making a profit.
- They must be registered.
- The purposes are limited by the list in the Charitable Trusts Act or a declaration by the Prime Minister.
- Examples of these purposes include sporting, religious, helping the sick/elderly, reforming criminals, promoting sports.
- There are about 200 charitable trusts in Solomon Islands.
- There is no fee for setting up the charitable trust, and it is quite fast.
- It is unclear about the duties of trustees (the managers of the trust).
- A charitable trust can receive grants and donations if they are for the charitable purpose of the trust.
- It can be unclear who the 'members' of the trust, and who benefits from the trust.
- It can be unclear how those 'members' can make a claim against the trustees.
- Professional advice would be required to set up a charitable trust.

Charitable trusts:

☑	Cheap and quick to set up	☒	Are not appropriate if the community wants to make a profit- it isn't a business
☑	Can receive grants and donations, as long as they are for the charitable purpose.	☒	Do not have a clear system of duties and standards for the trustees.
☑	Can work well if the priority is the charitable purpose, rather than making a profit.	☒	Not so clear about how trustees can be monitored by the people who are supposed to benefit or how they can make a claim if they do not think the trustees are doing their job properly.
		☒	Do not have laws requiring reporting or auditing.
		☒	Do not clearly identify all of the members.

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Co-operative Societies

- Co-operatives are a type of association where the object is the promotion of the economic interests of its members in accordance with 'co-operative principles'. Co-operative principles is not defined anywhere in the law.
- Co-operatives must be registered under the Co-operatives Societies Act 1964.
- A minimum of ten members must be registered in the co-operative, and must meet the criteria of the co-operative.
- There are not many co-operatives being registered anymore.
- Many of the co-operatives which have registered failed, and they have a bad public perception as a result.
- Registering and complying with the requirements can be complex and is time consuming.
- It is easier to set up a charitable trust than a Co-operative.
- Professional advice would be needed to set up a Co-operative.

Co-operative Societies:

☑	Can work for people wanting to make a profit	☒	Are complex and expensive to set up and maintain in accordance with the law, professional advice would be required
☑	All members are clearly identified and interests are protected through voting rights of members.	☒	Have not been popular recently and many have failed in the past
☑	Can receive grants and donations.	☒	Do not give the same level of protection or certainty for third parties as a community company.
☑	Audits are required every year by the registrar	☒	Audits are unlikely to really take place
		☒	Members must reside within the area of the co-operative

Community Companies

- A new type of company, which can earn a profit, but the profits must benefit the community, not individuals.
- Must be registered at company haus with the registrar of companies, which is free.
- Must follow the rules under the Companies Act 2009.
- Must decide on the community interest of the company: this is a description of how the community will benefit from the company's activities.
- Community companies cannot make loans to directors or shareholders.
- There is a 'lock' on the disposal of assets of the community company. This means that assets owned by the company can't be sold without community approval.
- Directors must prepare a report on the activities of a community company each financial year.

Community Companies:

☑	Are free and simple to set up.	☒	Not appropriate if people want to make <u>personal</u> profits.
☑	Members are represented and those representatives have voting rights to make sure the company is run properly. Also there are obligations on directors to report to the community regularly.	☒	Require some compliance, although it is simpler compliance than for a Co-operative, and the new registry will make it easy to comply.
☑	Can make profits and can receive grants and donations.	☒	Must appoint directors, who should be ready to comply with their legal responsibilities.
☑	Financial accounts should be kept by each company, but audits are not required under the Companies Act.	☒	Once assets are transferred into a Community Company it is very difficult to take them out.
☑	Clear rules for management of the company, including a model set of rules ready for use under the legislation.		
☑	Have limited liability and give certainty to third parties.		
☑	A priority is the preservation and protection of community assets.		