

# NARPO's Legal Structure

## FAQ's

The purpose of this document is to provide you with a general overview of NARPO's current legal structure and an understanding of some of the pros and cons of this structure and the possible alternatives.

Any decision to change the legal structure would need detailed advice from solicitors and accountants.

**1. What is NARPO's legal structure?**

NARPO is an unincorporated association.

An 'unincorporated association' is an organisation set up through an agreement between a group of people who come together for a reason other than to make a profit (for example, a voluntary group or a sports club).

**2. Why was NARPO set up as an unincorporated association?**

At the time, an unincorporated association was the most common legal structure for organisations of this nature.

**3. What are the advantages of an unincorporated association?**

There is flexibility in an unincorporated association. It can easily change its constitution and objectives.

**4. What are the disadvantages of an unincorporated association?**

Over the years, legislation has changed and society has become more litigious exposing unincorporated associations to risk.

The main disadvantage is that individual members of the association are personally responsible for any debts, liabilities and contracts entered into.

In addition, investments cannot be held in the name of the organisation, but instead have to be held in the names of two or more members.

**5. Does NARPO have insurance to cover any claims?**

There is insurance cover, but there is always a risk that an insurer will try to avoid a claim or that a claim is capped, exposing members to risk of a financial contribution.

**6. NARPO branches are independent of each other. If there was a claim against a branch, would all branches be at risk?**

It is arguable that branches are not just autonomous but are separate entities.

However, a claimant may well try to claim against NARPO as a whole, putting all branches at risk.

**7. If a member only pays their subscription and does not involve themselves in the running of a branch, would that member still be responsible?**

The short answer is yes; each member has equal risk. A claim may well be made against the branch officials, but they could in turn claim against each member.

**8. What is the alternative?**

Many unincorporated associations are now changing their structure to become a company limited by guarantee. This is a company registered at Companies House, but it has members rather than shareholders. The members agree to pay a fixed sum should the company be dissolved which is usually £1.00.

**9. What are the advantages of being incorporated?**

- The members have limited liability which means that they are only personally liable to the limit of their guarantee which is usually £1.00.
- The Company can also have assets in its own name such as a bank account or investments. NARPO HQ and individual branches could have a bank account in the name of NARPO rather than the names of several members.
- The directors will have to comply with the statutory duties in the Companies Act 2006. This enables better governance and also provides members with a way of enforcement against the directors on behalf of the company.

**10. Would the name NARPO change?**

It would be NARPO Limited at Companies House but could still be NARPO to members.

**11. Who would be the company directors?**

The members of the NEC would become directors.

**12. Would the directors be paid?**

It is unusual for directors of companies limited by guarantee to be paid a salary. They can however claim their out of pocket expenses.

**13. If it was decided to incorporate, what would the process involve?**

The process would involve:

- Obtaining approval at an Annual Conference.  
Delegates at the Conference would be asked to approve in principle the concept of incorporation and also to approve the Memorandum and Articles of Association which are the constitution of the organisation and would replace the current NARPO Rules.
- Instructing solicitors to assist in the drafting of the Memorandum and Articles of Association and any Rules of the new company.
- If these are approved by an Annual Conference, then forming the limited company.

**14. What are the responsibilities of a Company Limited by Guarantee?**

The responsibilities are the same as a limited company with shareholders and these are briefly:

- Running the company in accordance with the Companies Act 2006 and the company's articles
- Registering for business taxes, including Corporation Tax (and VAT, if applicable)
- Registering as an employer if the company has employees
- Preparing annual accounts for Companies House
- Preparing Company Tax Returns and accounts for HMRC
- Filing a confirmation statement at Companies House every year
- Paying Corporation Tax (and VAT, applicable)
- Maintaining a registered office address
- Keeping statutory registers and accounting records
- Reporting any change of company details
- Making statutory registers available for public inspection

**15. Would Branches have protection and limited liability?**

Yes, the Constitution can be drafted to enable branches to have autonomy but still be part of the company. All members of NARPO would be members of the company limited by guarantee.

Alternatively, branches could remain autonomous and independent and if they wish the individual branch could go through the process of incorporation as a separate company limited by guarantee.

**16. Would incorporation mean that branches would also need to comply with the requirements set out in 14 above?**

Much will depend on whether the branches are viewed as autonomous. Some organisations similar to NARPO have not needed to register branches for VAT.

If a decision is made, in principle, to examine incorporation it would be essential to instruct solicitors and accountants to review all the pros and cons including tax and VAT. This might mean that each branch would need to incorporate separately.

Incorporation would have no effect on the funds currently held by branches or on branches to hold funds in the future.

**17. Could NARPO register as a charity?**

A company limited by guarantee can register as a charity provided that it can establish a public benefit. The Charity Commissioner has been more restrictive in recent years on the issue of a public benefit, and it is sometimes necessary to demonstrate that the charity benefits a wider section of the public not just a specific group

In addition, becoming a charity can be more restrictive particularly with regards any action which could be taken to be political. Some future campaigns by NARPO may be determined to be political and the organisation may wish to consider having a separate charity to retain flexibility.

Any decision to become a charity would need legal and accountancy advice to review the pros and cons.

**18. Is there an alternative structure to provide protection?**

NARPO could become a Community Interest Company (CIC) which is sometimes used for not for profit organisations. There are however restrictions with a CIC which are:

- it must have an overriding community purpose (which is enshrined in its objects, as set out in its constitution).
- it must have a statutory asset lock (which ensures the assets are used for the benefit of the community).
- it cannot register as a charity.
- it cannot engage in political campaigning or activity if the activity only benefits a particular body.

These restrictions lead many unincorporated organisations to choose the more flexible route of a company limited by guarantee.