

Incorporated Societies in Sport and Recreation in Aotearoa New Zealand

ARE TRADITIONAL STRUCTURES
FIT FOR THE FUTURE?

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This opinion piece was written by

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The opinions expressed are those of the authors and not necessarily those of Sport NZ.

Several experienced sector practitioners were interviewed for background and perspective.

Executive summary

All our National Sports Organisations (NSOs) are based on the incorporated society structure. NSOs have evolved considerably from their origins as community-based groupings of volunteers, but they are still based on a model that has changed little.

Today we find ourselves with political systems based on 18th-century philosophy, run with 19th-century administrations, built on 20th-century technologies, attempting to confront 21st-century challenges.

The federal system (groupings of separate entities) within sport has some utility, notably that members retain ownership and have a voice on the benefits that the wider entities should be generating. It can also be cumbersome, resistant to change and at times passionately focused on the wrong issues. As our national bodies grow into sizeable organisations dealing with complex issues, it is only prudent to pause and consider if this remains the best structure to serve sport into the future. The authors have no firm view on this, but we do note that the world today is vastly different from the one where clubs aggregated into regions and then peak bodies. Many things have changed, including increases in revenue and the emergence of professional athletes and their support teams. One hundred and fourteen years on from its original form, the new Incorporated Societies Act (2022) is cause enough for some reflection.

The sector is well aware of the challenges to be addressed in the years ahead and that innovation can be found in many areas. But attempts at varying the federal model have been at best limited in scope and generally time-consuming and costly. There is some frustration that energy is being directed too much towards internal processes and not enough towards external impacts.

Only 25 percent of people participate through the traditional club structure. High-performance programmes are specialised and resource hungry. The coming generation interacts with the world in a fundamentally different way from generations past. Their concepts of belonging have been redefined. If it is not accessible digitally it's likely that it doesn't exist.

A good question to ask is: "If we started with a blank page, would we design the sector in this way?" Recent Sport NZ research indicates that a different set of drivers and organisational features will be required. Federalism can work and the commercial world has evolved some highly agile variants that afford business units significant flexibility and decision rights. But they require very clear frameworks of policy, desired outcomes and performance expectations.

This sector, too, has been testing new means of delivery, partnerships, forms of membership and approaches to service efficiency.

The challenge remains that much of the sector relies on the goodwill and passion of volunteers. The incorporated society model offers participation in ownership in return for that investment. The question is, then, what rights should that ownership have?

Shareholders in a listed company may have a piece of ownership, but in reality they have little or no control over the business. As the sector grows and professionalises, owners need to use their rights in a prudent manner. That may require a more considered design than the current federal model, or a variant of it better suited to a complex world.

This paper outlines some approaches that respond to this challenge both within and beyond the sector.

Foreword



Bill Moran

“ Current national sports and recreational organisations are based on structures designed for two to three generations ago.¹ ”

Challenges within our sector are increasing in number. The pace and severity of change in the world are not abating. Sport New Zealand has invested heavily in trying to understand what the future may bring for our sector. Structure comes up both in the research and among voices in the sector. There is enormous value in people cooperating at the local level. It has been and will continue to be the bedrock of our sector. The question here is, through what structures should this be for the future?

The advent of the revised Incorporated Societies Act (2022) provides a good moment in time to pause and reflect. Aotearoa New Zealand set in place many things just after World War II, and the structural foundations of our sector are among them. As the quote above says, this is now three generations back. There are positive aspects of the current structure of sport and recreation. We should be mindful of these as we consider change.

This think piece, the fourth in a series, purposely seeks to challenge our current thinking about structures. It outlines widely known issues and considers first principles and models for cooperating structures on the basis that more of the same will not deliver the future we need. It challenges us to think about ownership and subsidiarity, both closely held in many parts of our sector, and not necessarily helpfully.

I acknowledge the many talented people who are grappling with these issues and experimenting with solutions. We need to learn from your efforts, and Sport NZ is committed to supporting you because more of the same will not deliver the future we need. The discussion needs to be informed and this short publication will contribute to our thinking.

Bill Moran

Chair
Sport New Zealand and
High Performance Sport New Zealand

¹ Futures Summary. Sport NZ

The current state

The central question of this discussion paper is, are traditional structures fit for purpose to address future challenges?

Organically grown?

Form follows function² came to us from the world of architecture, but is now equally applied to organisational structures.

The predominant type of sport and recreation organisation in Aotearoa New Zealand is the federation of incorporated societies, with separate societies at national, regional and local levels. Incorporated societies must have members. The members of National Sports Organisations (NSOs) are typically regional or provincial bodies, whose members are the component clubs. Their members are usually individual participants, coaches and officials.

This form was generated by function, and organically developed from the ground up. Participants became clubs that needed something at the regional level for competition. The step to a national body was driven again by competition, but also the need to link to the international bodies and events and of course gain access to certain types of funding.

The structure suited a world driven primarily by volunteers. Membership of a society provided a sense of belonging and ownership. In that sense it was a transactional arrangement, a sense of control in return for hours gifted.

Originally competition structures, societies have evolved to take a top-down or possibly centre-out perspective on the broader participative elements of sports. They all still rely on high levels of volunteer participation for coaching, officiating and governance.

Fit for the future?

The society that gave rise to these federal structures no longer exists. It was less urban, slower paced, time rich, considerably less diverse, and non-digital. Can these structures serve the society in which we now find ourselves?

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Today we find ourselves with political systems based on 18th century philosophy, run with 19th century administrations, built on 20th century technologies, attempting to confront 21st century challenges.³ //

Federal structures have of course enjoyed success. Many people have participated in them, and they continue to be central to performance pathways. There will always be a need for formal legal entities, especially where there is asset ownership. But fit-for-the-future is a complex question without a simple answer.

This paper does not argue that the model is no longer relevant, but it does argue that the world has changed markedly and many of the factors contributing to the success of such structures have varied considerably. This is of course not news to the sector; many organisations are grappling with the future. We note some of the resulting initiatives throughout the paper.

In considering future options for cooperation, it should be noted that federal structures can be based on entities other than incorporated societies, and many are. The section addressing the federal concept explores this further.

² Architect Louis H Sullivan in his 1896 essay, The Tall Office Building Artistically Considered

³ Richard AK Lum. Futurist and Chief Executive of Vision Foresight Strategy

The Incorporated Societies Act (2022)

A strong reason for reflection on current structures is the passing of the Act in April 2022. There is a healthy transition period, but by April 2026 all incorporated societies will need to be re-registered and demonstrating alignment with the revised legislation.

A summary of the main impacts is noted here. A fuller discussion is appended.

- Members must consent to being members of the Society. Deeming members as belonging to the next layer up in the structure will no longer be permitted.
- Failure to keep a register of members now attracts a possible penalty.
- Akin to the Official Information Act (1982), members may now request information.
- There are at least 26 matters that must be in constitutions.
- There needs to be a statutory contact person.
- Duties of officers are now akin to those in the Companies Act (1993). A breach of duty can result in orders for compensation.
- Conflict of interest rules have been tightened, and the register must be available to members and at annual meetings.
- New reporting requirements are included.
- All boards must contain a majority of society members.⁴
- Processes for internal disputes must be in the constitution.
- New processes for mergers and amalgamations are included.

Some of these requirements will be tough for small groups. Therefore, the advent of the Act is a good moment in time to consider alternatives. At the same time, a move away from using an incorporated society will create a number of other challenges (most notably not having jurisdiction over members for sporting reasons) that are not easily replaced by another type of legal entity.

However, there is certainly the ability within an incorporated society to revisit the structure of sport and recreation organisations. Mergers and amalgamations are two examples, with the Act including new provisions that make the legal process for both simpler and more efficient. Further on in this think piece, examples of alternative models and structures are explored.

Performance to date

Around 25 percent⁵ of the people in Aotearoa New Zealand who participate in play, active recreation and sport do so through the traditional club structures⁵. After a significant reduction between the late 1990s and 2015 participation has been relatively stable assisted by ongoing investment from multiple sources including Sport NZ and Class 4 gaming. Participation by rangatahi in clubs within and external to schools is easing. Over the same period active recreation particularly gym and fitness centre membership has increased.



Many people are now seen as ‘consuming’ sport and fitness-related activities rather than being dependable participants in traditional sector clubs.⁶ ”

Putting aside high performance sport, it is clear that despite considerable investments in money and time, offerings through the traditional structures of sport are declining in attraction. Generational changes, explored later in this piece, definitely have a part to play and there remains a question on whether NSOs can or should have influence on community-level sport.

The further question is whether those structures are causal in this decline, or are there other factors in play?

⁴ Sport NZ is seeking an exemption for sport and recreation organisations

⁵ [Active NZ: Updating the Participation Landscape | Sport New Zealand - Ihi Aotearoa \(sportnz.org.nz\)](https://www.sportnz.org.nz/active-nz/updating-the-participation-landscape)

⁶ Robert Hickson. Opinion piece in Nine Steps to Effective Governance. Sport NZ. 2021

Structural weakness?

It has been the experience in the sport sector that change processes take “twice as long as anticipated and cost three times as much”.⁷

“ The decision makers in our sports structure – we as the NSO have little control over change because it is voted by Associations. Associations are slow to come around to new ways of thinking and are stuck in the old/traditional way which is not suiting our new participants. Change takes a long time to put into place.”⁸ ”

The origin of this think piece was in part the frustration experienced by sector leaders as summarised in the quote above. Federal groupings of incorporated societies may be technically democratic, but decision-making is slow and the level of consensus required for major change is a high bar. Local people are understandably interested in local issues, but this can morph into parochialism or myopia. Those who are interested in the political structures within a code may not necessarily represent wider interests and in many cases carry at least a modest bias.

NSOs can also be viewed as distant from the coalface, making decisions unrelated to the local reality and/or missing opportunities for innovation.

Communicating top-down is not always effective. The philosopher Bertrand Russell observed that the single biggest problem in communication is the illusion that it has taken place. The time necessary to collaborate effectively with a volunteer structure is considerable and can be frustrating when there is always so much else to do.

Enormous effort has gone into various attempts at structural change within NSOs. Often much of this has been about ‘getting the numbers’ at a pivotal general meeting despite

layers of distrust and misinformation. Too often debate is focused on the wrong things, usually levies. Nothing seems to vex a membership more than what are generally very modest sums of money. At a macro level there is usually little dispute on desired outcomes, more participants, higher levels of retention and consequently a larger pool from which to draw competitive talent. How to achieve this and particularly who pays achieves less consensus, and integrated strategies as an option have been rare, although this is changing.

There is good work underway in some codes, for example to align outcomes stated in high-level plans down and across structures. Northern Region Football was recently formed through a merger of the Auckland and Northern Football Federations. Its new strategy is aligned to New Zealand Football’s plan.

Given that structural change can be diversionary, expensive and time consuming, seeking alignment by focusing on mutual outcomes may be, in many cases, a more logical and effective approach.

Where there has been structural change, in the most part this has been a modest variation of a current structure. Sometimes the desired goals have yet to be realised.

It seems timely to review regional layers within codes against the original intent of their formation. Many have grown as funding has become available. A close analysis of participation and performance gains is warranted, as is an analysis of the success of the integration of the professional and community games. The growth in costs and overheads must be balanced with demonstrable increases in value. Just as it is in the commercial world, an increase in the cost of sales must ultimately drive benefit delivery or the organisation will face a slow decline.

If layers across the system are identified as a handbrake on effective change, and if they are using more resources for lessening results, their future must warrant scrutiny. There will be exceptions and they have learnings to offer.

The introduction of the new Incorporated Societies Act also offers an opportunity to reassess what a genuine governance role looks like across the layers of federations. Some boards within federal structures certainly have fiduciary oversight of assets and perhaps management of competitions, but a genuine freedom to create and implement strategy may not be realistic. This can lead to a level of frustration for those serving on those boards.

There are some residual reasons for retaining formal structures for event delivery, risk management, and revenue receipt. These could, however, be aggregated or contracted out.

It is time to agree that individual vertical distribution structures for 70-plus sports in a country of five million people have likely seen their day, and technology advances are quickly closing the argument.

⁷ Former Athletics New Zealand CEO Scott Newman commenting on change within the sport

⁸ Interview comment in Kantar Future of play recreation and sport. Sport NZ 2020

A changing world



// There are decades where nothing happens; and there are weeks where decades happen. //

We used Lenin's quote in a previous piece in this series and it seems worth repeating. COVID-19 and now the Ukraine conflict have upended the world as we've known it. There are many factors affecting the near future, but these two and their unknown medium-term effects are pivotal.

At home we saw in the recent violence at Parliament two seeming opposites in play: a call for individual freedom expressed through the sovereign citizen⁹ concept and the need to have purpose and belong to a movement. The pandemic has reminded us that we are a social species. Restrictions on our ability to gather have added fuel to existing frustrations.

The accidental revolution of home-based work means we are unlikely to return to pre-pandemic behaviours. A recent AUT study¹⁰ suggests that hybrid workers (working between home and office) are the happiest. Microsoft believes¹¹ hybrid work will be a significant disruption, possibly greater than the pandemic itself. Other shifts in the nature of work, four-day weeks, multiple roles and the 'great resignation'¹² will impact on people's leisure preferences.

Organised sport and recreation will continue to play a key role in delivering a sense of belonging, an opportunity to give back, and a means to enjoy the many wellbeing benefits it delivers.

Generational change

// The rapid evolution of our society over the past 50 years has created a situation where our eldest members were born into a world that our youngest members do not relate to in any way.¹³ //

Baby Boomers built most of the membership structures we have today in this sector and elsewhere. There is some evidence¹⁴ that next generations are equally inclined to volunteer or perhaps more so, but the way they choose to do so is very different. Those vested in the structures they created are more likely to be involved in fixing things that need time and effort. Younger people are far more purpose driven and aspirational. They will give time to things they believe in and where they can make a difference. They tend to relate to credible individuals more than to the organisation itself. At its most obvious, endless meetings trying to seek consensus on the seemingly inconsequential will not engage these people.

Those who do belong are continually reassessing the value offerings of organisations and will jump ship quickly if they no longer work for them. The type of belonging relationship that will work for them is far from that offered by traditional membership organisations. It requires a customer-focused and innovative ethos embedded throughout the organisation. This is more than posting a bit of social media. As the famous marketing quip says, the dog is indifferent to the outside of the can.

Digital natives have never known an unconnected world. They are exposed to endless marketing messages and will quickly dismiss material of little relevance. They expect everything to be delivered in a seamless digital experience. The inability of some universities to shift modes of delivery quickly during COVID-19 drew quick scorn from disgruntled students.

Importantly, if you look at the faces of those at committee tables, in boardrooms and at annual meetings and there is little alignment between them and the faces of those who will determine your future, there is a problem. The necessary change may not appeal to the current leadership, but long-term survival will be contingent on making tough calls. Things previously deemed sacred and inviolate may well need to change.

9 https://en.wikipedia.org/wiki/Sovereign_citizen_movement

10 <https://www.scoop.co.nz/stories/BU2202/S00420/they-key-to-happy-employees-hybrid-working.htm>

11 <https://www.microsoft.com/en-us/worklab/work-trend-index/hybrid-work>

12 [Great resignation](#)

13 Moore, B. Association Apocalypse. Strategic Membership Solutions. 2019

14 Ibid

Digital and personal

Generally, NSOs have come late to technology adoption. There has been a tendency to parochialism in data ownership, and in many cases clubs have been loath to share and allow access to members' data. Hence direct communication through the layers can be a challenge, although this is improving.

The impact of technology within other sectors is readily apparent. Disintermediation, the removal of layers, is most obvious in the rise of online commerce, recently accelerated by COVID-19. But the impact is widespread; travel, banking and accommodation have all fundamentally changed and physical activity is not exempt. What previously needed pencil, paper and people can now be done through digital communication. The aggregation and comparison of offerings is normal practice. Service providers are increasingly able to personalise offerings based on preferences and known behaviour; music streaming is a good example. The digital world has led to an expectation of customisation suited to specific needs. Generic offerings will not prosper. This is not new information. The astute marketer has always understood that the problem is not the disinterested customer but a failure to put the right offer in front of them.

Parkrun is a good example of technology leaping over layers. Over 7500 events in Aotearoa New Zealand, and interestingly many of them are run in partnership with existing clubs. In many areas group activity has no formal structure and is simply facilitated by technology. Virtual groups in cycling have existed for a long time. The bushy tailed can compete via apps such as Strava without ever meeting face-to-face or wheel-to-wheel.

Sport NZ has been active in assisting the sector in the technology space, as evidenced by the roll-out of an enterprise Customer Relationship Management solution for all Regional Sports Trusts (RSTs) to better capture data and improve their stakeholder management.

The new crowdfunding platform, BoostedSport, helps grassroots organisations raise funds. MaraeFit, a kaupapa Māori-driven mobile app, connects Māori to their marae through play, active recreation and sport.

The federal concept

There is nothing inherently wrong with the concept of federal structures. Federalism has been used across the ages to keep the balance between the big and the small. Being overrun by the almighty Persians and absorbed into the empire was said to be akin to a very light veil falling. As long as taxes were paid, locals were left to do much as they had previously. The upside was defence, knowledge and a huge span of trade.

But it is not without challenge. Organisational theorist Charles Handy notes:

“ [Federalism] is never easy, because it means allowing the small to be independent while still being part of the larger whole, to be different but part of the same. Federalism is therefore fraught with difficulty because it is trying to combine those two opposites, to manage the paradox.¹⁵ ”

Paradox is endemic within federal structures. It is led from the centre but owned by the component entities. It attempts to appeal at the local level but have a national or even global perspective. It encourages independence within a framework of interdependence. Above all, federalism permits the voice of the small to be heard and rowdy individuals to impact the smooth running of the enterprise. It is a necessarily construct of compromise and pragmatism in order to function. It must be accepted that not everyone can get everything they want. There must be a deference to a greater good. Australia and Canada provide clear examples of the stress that federal systems present in political structures.

The European Union is possibly the largest federal experiment, embracing 450 million people. The long-standing perception of the British is that Europe is somewhere one goes to rather than something one belongs to. Ultimately this quirk of English exceptionalism has been twisted for expedient political gain and the Union has lost a major member.

Yet it is this idea of twin citizenship that underpins federal structures together with the concept of subsidiarity. We belong to our local communities where our friends and work connections exist. But if we cannot elevate our belonging to a wider group with an associated sense of responsibility, we become very tribal indeed.

There are challenges within any federal system. It can be costly in people terms, with many office holders across the levels. Often people have multiple and possibly conflicting roles within the structure. Decision-making can be difficult and time consuming. There is often disproportionate influence. The make-up of the American Senate is an obvious example; however, it does provide some checks and balances on the centre becoming too powerful.

Federalism requires an understanding of subsidiarity to work at all. Handy interestingly quotes the Catholic Church which asserted the moral principles involved. The papal encyclical, *Quadragesimo Anno*¹⁶ of 1931, was a response to industrialism and the Great Depression. It stated:

“ It is an injustice, a grave evil and a disturbance of right order for a larger and higher organisation to arrogate to itself functions which can be performed efficiently by smaller and lower bodies. ”

Reverse delegation is a good description of subsidiarity, permission from the component parts to the centre to undertake certain functions. Problems occur when the centre assumes functions that members believe more correctly reside with them or that they have no given authority for.

The idea that decision-making and discretion should be as close to the action as possible underscores much contemporary thinking on management structures. Management thinker Rosabeth Moss Kanter characterises the benefits¹⁷ of discretion sitting within smaller units as faster, focused, flexible, friendly and more fun.

Adding the digital world to this base of theory points us to some interesting variants of the federal models now emerging.

¹⁵ Handy, C. *The Empty Raincoat*. Arrow Books 2002 edition.

¹⁶ Published 1931 not 1941 as Handy notes.

¹⁷ [5 Fs for Success](#). *The Independent* July 1993.

Modern approaches to federalism

The Pope had it right in 1931. Contemporary approaches to structures are the very opposite of the time-and-motion approach to management. This was outlined by Frederick Winslow Taylor¹⁸, arguably one of the first management consultants and an early proponent of scientific management thinking. Under this theory work was broken into exact, assigned, measured, calibrated and regulated tasks. There was no freedom of action or thought. People were simply cogs in a machine.

Interestingly, modern approaches are very akin to good-practice governance. The centre (board) sets outcomes and provides only as many guidelines (policy) as necessary. Thereafter the operating unit is free to choose the optimal means to achieve the outcomes (targets) set.

Richard Branson famously runs his empire with a very small core team. Meetings are brief, often standing and largely verbal in deference to his dyslexia.

In their excellent book, *Humanocracy*¹⁹, Gary Hamel and Michele Zanini take aim at the stultifying effect of central bureaucracy and discuss modern examples of dispersed organisations.

Haier, the Chinese appliance maker, divided itself into more than 4000 microenterprises with 10 to 15 employees each, organised in an open ecosystem of users, inventors and partners. This shift turned employees into energetic entrepreneurs who were directly accountable for customers. Haier's microenterprises are free to form and evolve with little central direction. The centre sets some boundaries and of course expects a level of return. But the freedom extends to contracting out central services. If they can get a better deal elsewhere, they are free to do so.

The American steel maker Nucor's success is based on small, nimble steel mills with high levels of technology and flexibility. When orders started drying up in one plant, the front-line workers simply turned into marketers, looking to find new customers for new (yet to be developed) products, and actually went door knocking for new clients.

None of this is surprising. We know that top-down change has a low rate of success. Hamel and Zanini note that separate studies by three of the major consulting groups agreed on a failure rate of 75 percent for change programmes.

So what does this mean for sport and recreation?

Federal models work where the centres provide obvious benefits. In the Persian Empire, the benefits were security, trade and ease of travel. In Haier, access to capital, knowledge, systems and international reach. Aside from the handful of sports that enjoy broadcast revenue or a share of international betting, most are not placed to distribute funds to regions or clubs. This leads to the inevitable question around benefits being derived from the national body usually focused on the levy discussion.

Incorporated societies may not be the ideal model for sport and recreation, but they are the least bad of current legal structural options. Unlike Australia we do not have the model of a company limited by guarantee that is commonly used in sport and has members. Limited liability companies with charitable status are possible here but not easy to create.

Incorporated societies are based on ownership. At one level this is a good idea. People at the community level can group together for common benefit. They own and therefore decide on the direction of the organisation. There are clear social cohesion benefits. But not all members have the inclination or the time to be involved in running the organisation. They simply want to book the court, turn up and play. In this sense they are no different from members of a commercial gym. Gym members have their rights and privileges laid out in their membership agreements. Common law provides a broad swath of protections, including health and safety, building standards and rules governing data privacy and fair trading. Gym members are not and do not wish to be 'owners'.

A growing majority of participants are not really interested in the obligations of ownership. This suggests a deep problem within the traditional structure of sport and recreation and an opportunity for some meaningful discussion on alternatives.

¹⁸ https://en.wikipedia.org/wiki/Frederick_Winslow_Taylor.

¹⁹ Hamel, G. Zanini, M. *Humanocracy*. Harvard Business Review Press. 2020.

International federations and high performance

The structures of NSOs are influenced by the rights given by, and obligations to, their international federations.

In most cases international federations own the laws of their sports.²⁰ As “guardian[s] of the laws of the game”²¹, “they exist to provide a set of uniform rules for the sports and to ensure they are enforced”²². Therefore, in order to deliver a sport within a country, the national body must be given the right to do so by its international federation (noting that in some sports national bodies are permitted to make domestic adjustments). This right usually stems from membership by the national federation of the international federation.

In addition, international federations usually own their international competitions and events.²³ Therefore, the right for a national body (or any related entity set up for that purpose) to host international events (including any media rights) or to hold events sanctioned by the international federation, also stems from such membership together with contractual agreements.

A national body is required to meet its requirements as a member of an international federation. These typically include obligations to:

- be the sole national governing body for the sport in the country
- be an incorporated legal entity
- ensure that the national body has members (such as clubs, athletes, coaches and officials)
- democratically elect its board or a majority of it
- become a member of or recognise the relevant regional body of the sport (such as the Oceania body)
- refer final disputes and appeals to the Court of Arbitration for Sport or the judicial structure of the international federation
- not enter its athletes into competitions with any competing body
- comply with the international federation’s anti-doping rules, which must comply with the World Anti-Doping Code

- comply with all the international federation’s rules, including rules governing the organisation and competitions²⁴ as well as integrity and disciplinary matters
- have a constitution and rules that are consistent with the international federation’s, or that meet the requirements of its model national federation constitution
- meet good governance obligations²⁵
- bind the members of the national body to comply with the international federation’s rules.

Governments and third parties (such as NGOs and sponsors) are also increasingly seeking to demand that good governance requirements be implemented by international and national sports bodies.²⁶ These commonly cover having transparency, democracy, integrity and checks and balances. Occasionally the perceptions of the international body of good governance practices are somewhat behind or at odds with the progress made by national bodies.

International federations are primarily high performance constructs. Equally the current federal model evolved from competition structures. The proportion of participants who flow through into high performance programmes is a fraction of a percent. The obvious question is whether these structures remain the best options. Although a doctorate may be the pinnacle of formal education, we do not build the system for this very small number of people.

The emergence of professionalism (paid roles) in high performance sport is relatively recent and the impacts of this on competition and organisational structures remain an evolving space. They include the inherent tension between the emphasis on and transfer of resources to performance programmes versus broader participation. We know that code-specific specialisation should not set in too early and there are various initiatives²⁷ that respond to that reality.

Useful questions to ask are whether NSOs remain the appropriate vehicles for elite programmes and whether there should be a greater structural separation of high performance and grass roots or a much closer collaboration.

20 Some of the other newer sports like e-sports are an exception to this principle, either because there is no international federation or because there are two or more international federations. For golf and cricket the rules of the game are owned by the Royal and Ancient Golf Club and Marylebone Cricket Club respectively.

21 Paragraph A2.11 of Chapter A2, ‘Sports Governance’ by Craig Giles & Jonathan Taylor in *Sport: Law and Practice* (3rd Ed) Lewis & Taylor, Bloomsbury (2014).

22 Paragraph A3.7 of Chapter A3 ‘Organisational Structures for Sports Governing Bodies’ by Kitty Turner, James Maloney & Tom Bruce in *Sport: Law and Practice* (3rd Ed) Lewis & Taylor, Bloomsbury (2014).

23 For example, the International Olympic Committee owns the Olympic Games. Similarly, most International Federations (or their subsidiary entities) own their sports’ world championships and other international leagues and events.

24 For example, the World Rugby byelaws require a Member Union/Association to “abide by the bylaws, Regulations and Laws of the Game and to accept and enforce all the decisions of World Rugby, Council, and the Executive Committee (as the case may be) in respect of the playing and/or administration of the Game throughout the country or countries within the jurisdiction of such Member”.

25 For example, the International Paralympic Committee recently adopted a new constitution (December 2021) in which its members (including national paralympic committees) are required to “use reasonable endeavours to comply with the Minimum Governance Standards Regulations” (Article 13.2.24).

26 For example, UK Sport requires sports bodies that receive government investment to comply with its Code for Sports Governance (updated in 2021) (<https://www.ukssport.gov.uk/resources/a-code-for-sports-governance>). There are also some international good governance benchmarks supported by bodies such as the International Olympic Committee and the Council of Europe, such as the 50 good governance benchmarks published by the International Partnership Against Corruption in Sport (IPACS) https://stillmed.olympic.org/media/Images/Ipacs/PDF/task-force/IPACS_Sport_Governance_Benchmark.pdf. See also the good governance indicators in the self-assessment questionnaire published by the Association of Summer Olympic International Federations (ASOIF) https://www.asoif.com/sites/default/files/download/fourth_if_governance_self-assessment_questionnaire_2021-22.pdf.

27 For example, the Balance is Better programme.

Emerging models

People are engaged with the issues discussed and options are being tried. As with all innovations, some will succeed and some will fail. A considered process embracing learning to date, and a logical process will certainly help.

Addressing these questions would be a good starting point.

- If one took a clean-sheet approach to the delivery of sport and recreation, would the current structure be the best option?
- From the consumer's perception, what are the determinants of choice and repeat purchases (ongoing participation) and do they have anything to do with structure? Asking the question in a different way by looking 10 years into the future, what would success look like? What are the necessary elements or preconditions for success? Will present structures aid or impede the achievement of those things?
- What separation, if any, should there be between high performance and grass roots and for what benefit?
- In a pure policy sense, should governments and funders be primarily concerned with the system or the outcomes it achieves?

There is good information available to inform thinking. Sport NZ's research on future options has included a synopsis of preferred system characteristics.²⁸ This was defined and agreed through broad sector consultation. Characteristics include the concept of mana tangata – empowered communities. It is worth noting what success via this approach would ideally look like. This is highly aligned with the conceptual discussions above.

- A strong feeling of trust and empowerment exists across organisations, whānau, hapū, iwi, Māori and grassroots community groups.
- These groups operate as a broad and loose network, to help people be active for life in any ways they choose.
- All levels of government collaborate (across and between) to put physical activity on agency agendas.
- Communities determine their own needs and are trusted to identify the best solutions for those needs.
- Policy, planning and service design and delivery are whānau and community centred.
- People working across the network have the confidence and trust to share their knowledge and practice with others to lift everyone's capability.
- Everyone has open access to a store of information on 'what works and doesn't work', including research on behaviour change, guidance, and case studies and evaluations based on evidence.

- Data and research on physical activity are open for all to use and anything funded by the Crown is published under open licences.
- Funding models are non-competitive and sustainable and can flex with changes in demand.

This is a big challenge and a major opportunity. Significant change will be needed to deliver on these aspirations.

Henry Cloud gave us the idea of necessary endings.²⁹ His analogy was of the rose bush. It is necessary both to prune and to remove imperfect sections of the bush in order for it to prosper and bloom in a desired shape and manner.

Some years ago, one of the major sports was attempting a restructure at the regional level and a reduction of legal entities within the structure. It was bogged down. Eventually it emerged that the obstacle was the retention of nominal boundaries for competition purposes, to retain regional identity and influence. Once that was agreed, things moved. Change is tough; often people have to let go of things held dearly over a long period of time.

Examples of alternative models and structures

The issues outlined in this think piece are not new, and innovators in the sector have been trying new options for several years:

Working with private providers

Private providers of sport and recreation have existed for a long time, and some have been very successful. Gyms are but one example. Touch, gymnastics, basketball and football all have private providers woven into the fabric of the sports. Multi-sport businesses such as Action Sports are multi-venue and multi-code. Event companies are active across multiple disciplines, notably athletics, cycling, swimming endurance events and triathlon. Working with them rather than against them is logical. Cricket has brought them into the tent with a formal agreement and Basketball is looking at structural change to embrace private providers.

Virtual groups

Some of these are large and highly organised. Cycling groups, for instance, can embrace hundreds of participants, hold events and competitions and organise multi-day tours. A percentage of riders will be competitive riders at the club level as well. Usually there is no legal structure.

²⁸ <https://sportnz.org.nz/resources/preferred-future-5-characteristics>.

²⁹ Cloud, Henry. *Necessary Endings*. Harper Collins. 2010.

Facility-specific options

Multi-code facilities are not new but they are growing in number. The best of them have good marketing and service delivery capabilities in place. Code agnostic but, hopefully, very customer-focused.

The role of RSTs in supporting the future sustainability of national and regional sporting organisations is valuable and will likely continue.

Sport Taranaki, for example, is working on the Tūparikino Active Community Hub due to be completed in 2028. The project goes beyond facilities to the development of new models of governance and delivery.

Depreciating physical assets is a common problem for clubs, with the cost of replacements prohibitive. There are examples of partnerships forged in order to develop and share new or updated facilities. Short of full mergers this nonetheless requires careful negotiation and ceding of some rights to the overarching entity.

Like-code cooperation

The present structure is very disparate, and the moving parts require a lot of people in roles. Multi-code cooperation is one answer; racquet sports for instance, where there are apparently 40 variants internationally. Squash and tennis already often sit in one club.

The aquatic sports at the international level fit under one body (FINA) but have evolved independent structures in Aotearoa New Zealand, and recently Swimming New Zealand has moved to reflect that at the local level. A national collective with other aquatic sports such as Diving New Zealand, New Zealand Water Polo and Artistic Swimming New Zealand is seeking to improve operational efficiency in delivering safe water experiences for New Zealanders.

Golf New Zealand is seeking to partner with its 14 District Associations, the New Zealand Māori Golf Association and the PGA of New Zealand to pool resources and bring the golf workforce together under one strategy to grow the profiles of golf, support clubs and facilities, and increase participation.

In Australia, the NSOs of boxing, judo and taekwondo established CombatAUS to manage the high performance programmes of these sports under one organisation.

Packaged products

NSOs have expertise in their sports and their delivery. There has been some success with branded product packages, for example Athletics New Zealand's Run Jump Throw³⁰ and Badminton's Shuttle Time, a Badminton World Federation schools/clubs programme. In a more distributed world focused on local delivery, this approach has merit.

Shared services

RSTs are active in this space, providing legal and human resources services for some and operational delivery for others. Sport NZ has also recently launched MyHR as a contracted service to a group of partners as a pilot. These services make sense, particularly for smaller entities lacking capacity. They provide a consistent service at a known cost, reducing risks and providing much-needed expertise.

Opting in federalism

Under this model there is an open market for services needed by the component parts. A club or region buys services where it sees value and the offer is competitive in the market. Haier, as discussed above, is a commercial example. Coach development and capability building, for example, is purchased as and when needed. These are good time-bound projects for local funders to support. These could be specialist entities that are outside the national body and necessarily working across multiple facets of the sector. Consistent with theory, this suggests a smaller centre and greater autonomy at the local level.

Unitary models

Under this model the individual is a direct member of the national body. The club has a relationship formulated through agreement. Triathlon New Zealand is the only developed variant of this in Aotearoa New Zealand. This reflects a code where clubs and private providers are both active.

Regional Sports Trusts

RSTs have moved in recent years to having a stronger focus on capability building. They will have a central role in facilitating new models of cooperation and delivery. Consistent with the Sport NZ principle of 'open access to information', there is a need for the trusts to work together and with Sport NZ to not duplicate effort and to ensure aggregation and easy access to learning and resources.

Non-membership structures

With participants in sport increasingly reluctant to become members of their local sports bodies (and national bodies), and the increased obligations under the Incorporated Societies Act, it is worth considering if a structure or several structures without members is appropriate (whether formed via a company, charitable trust or other legal form). Care is needed as membership provides an easy legal mechanism to ensure an NSO has jurisdiction to bind participants to all the various rules and obligations and to sanction them for breaches. This is more difficult and complex to achieve under a non-membership structure (requiring a matrix of contracts), but it is not impossible.

³⁰ <https://kidsathletics.nz/run-jump-throw/>

Conclusion

As with any transformational change there is no one answer. In some cases the current model, or a variation of it, will continue to work. Solutions must be contextual and build from first principles. These may include equality of access, local autonomy and a strong customer focus. Any solutions should also embrace a wise use of resources, especially voluntary time, simplicity, transparency, accountability, affordability and fairness amongst others. Structures need to be flexible, open to change and make it easy to partner with others.

So much of sector delivery is reliant on the time and passion of volunteers, and it will largely continue to be so. The question is whether the current structure of the incorporated society, as an individual entity or aggregated into federal national bodies remains the best solution. The seemingly complex and time-consuming nature of some structures means they likely will not survive. They will be undone by a lack of enthusiasm and overrun by more nimble and responsive delivery agents. With thought and reflections others will be able to adapt to the changing world. Ultimately it is not the structure that counts but the society's ability to deliver a meaningful experience to the participant.

Success for the contemporary not-for-profit organisation is driven on three factors³¹: an obsession with impact; working in partnership with others; and the ability to leverage funds, turning a dollar into two or three. Whatever structure is settled on, these behaviours must be facilitated within it.

In a digital and time-poor world that has quickly shifted attention spans, the days of doing the same thing and expecting a different result are gone.

31 Crutchfield, LR and H McLeod Grant. Forces for Good, the Six Practices of High-Impact Nonprofits. Jossey Bass. San Francisco. 2012

Appendix

New Incorporated Societies Act 2022

The federal structure of sport and recreation in New Zealand is commonly established using the incorporated society as the legal entity, with societies at national, regional and local level. Incorporated societies must have members. The members of national sports organisations are typically regional or provincial bodies, whose members are typically clubs. Their members are usually individual participants, coaches and officials.

On 5 April 2022 a new Incorporated Societies Act 2022 was enacted. After 114 years of the Incorporated Societies Act 1908, the new Act was long overdue as it did not set out minimum standards for running and governing societies. Members did not know what information they could expect from their committee and there was “little in it about how disputes should be dealt with”³².

The new Act seeks to promote high quality governance. It recognises that:

- members have the primary responsibility for holding the society to account
- societies must operate to promote the trust and confidence of their members
- societies are private bodies that should be self-governing and free from government interference
- societies should not distribute their profits or financial benefits to their members.

There are detailed summaries of the new Act available³³. However, in a sport and recreation context the Act provides a unique opportunity for NSOs to review their structure. In particular it provides a platform to encourage local volunteer managed clubs to merge or amalgamate or to change the structure in order to remove what will otherwise be a significant burden on them under the new Act.

In particular:

1. Societies must have a **minimum of 10 members**. While this has reduced from 15 to 10 members, the requirement to **maintain** that number at all times is new³⁴. This may be difficult for some smaller clubs.
2. Members must **consent** to being a member of a society. Membership application processes (whether online or in writing) will need to be reviewed to ensure that members consent to become members and there is a record of such consent. Also, for NSOs which deem members of their regional bodies or clubs to be members of the NSO, this will no longer comply with the Act.

3. Societies are required to keep a register of members with specific details³⁵ and the register must be updated as soon as practicable after becoming aware of changes to the information. While this was a requirement of the 1908 Act, if it is not complied with under the new Act an infringement fee or a court fine (up to \$3000) can be imposed.
4. Members may **request information** held by the society whether or not that information relates to them as a member. This provision is similar to a request under the Official Information Act, but it can only be made by a member. (Although it could well be used by the media or other third parties to source information via a member). This requirement has the potential to be very time-consuming, costly³⁶ and distracting to the core functions of most sports organisations. In addition, the impacts on reputation could be significant if an NSO's dirty laundry is shared publicly. Organisations will need to consider how they store their information to ensure it is held in such a way that it is easily located and accessible.

There are grounds to refuse such requests (ie to protect privacy; if it is prejudicial to commercial position of the society or a third party; or the information is not relevant to the operation or affairs of the society or the request is frivolous or vexatious). The reasons to refuse the request are not limited to those listed, so organisations can impose further grounds in their constitutions. These might include confidentiality and others such as those in the Official Information Act.

For sport and recreation organisations, an investment in online membership and data management systems will be necessary to comply with these requirements. These obligations provide an opportunity for NSOs to promote a single national database for membership and documentation for all of the sport's participants to assist clubs and regional entities to comply with the Act. NSOs will also need to allocate resources to manage information requests.

5. **Constitutions** will need to be far more detailed under the Act. There are in excess of 26 matters to be included in them. Most (but not all) of requirements NSOs will likely have in their constitutions already, but for small clubs and other volunteer run entities, it is expected there will be substantial work involved to update them. These will need to be registered by no later than 1 December 2025. NSOs should consider preparing template or model constitutions to assist their clubs.

³² Paragraph 1.2, “A New Act for Incorporated Societies”, Law Commission Report 129, June 2013

³³ <https://nzplaw.co.nz/the-new-incorporated-societies-act-guide-for-societies/>;
<https://sportnz.org.nz/resources/incorporated-societies-act-changes/>;
<https://www.mbie.govt.nz/business-and-employment/business/regulating-entities/incorporated-societies-act-review>

³⁴ This change was intended to maintain community infrastructure for instance in remote or low population areas.

³⁵ Including name, last known contact details, date on which they become a member and any other information prescribed in the regulations (which have not yet been promulgated).

³⁶ A reasonable charge for the request can be imposed if notified to the member within 10 days of the request. The information must be provided within “a reasonable time after receiving the request”. It is expected that the charging guidelines under the OIA may be used to determine such charges. See <https://www.justice.govt.nz/about/official-information-act-requests/directory-of-official-information/charging-guidelines-for-oia-requests/>

6. There are new obligations on **committees** (ie the body responsible for the operation and affairs of the society). These include having a minimum of three qualified³⁷ officers on the committee. In addition, a majority of the officers must either be members of the society or representatives of member bodies. One of the committee members must be the statutory contact person for the organisation. Some smaller clubs may struggle to meet these obligations.
7. New **duties** are imposed on officers (ie the committee members and the Chief Executive or equivalent person who occupies a role of significant influence in the management and administration of the society). These duties are akin to those required of directors on companies. A breach of these duties can result in orders against the officer including to compensate the society for any loss or damage suffered. While the inclusion of these duties in the Act should be lauded, they (and the ability to enforce them) are likely to add to the growing list of reasons why people will not volunteer to serve on sports committees.
8. Committee members will be required to **declare conflicts of interest** (and refrain from voting) where that conflict results from a direct or indirect financial interest in a matter. While the requirement to declare interests (or potential conflicts of interest) at national and regional level is largely not foreign, it will be for many local clubs. A register of these disclosures must be maintained and available for inspection by any members and at the AGM. These obligations are likely to impact local clubs as it is often people in the community who financially support their local club, who also serve on the committee. They will now have a conflict and may choose not to serve on the committee or continue their financial support.
9. New financial reporting and assurance obligations are included in the Act. For “small societies”³⁸ the financial reporting requirements are limited to basic annual accounts which do not need to be audited. But for most others the financial statements must be prepared in accordance with generally accepted accounting practice and be audited. The inherent costs of professional fees in order to comply with these requirements will impact sports organisations.
10. Procedures for dealing within **internal disputes** must be included within the constitution of every society.

Most sports organisations will have existing judicial or disciplinary procedures. However, the obligations extend to disputes between members or officers and include those related to misconduct as well as breach of the constitution or damage to a member’s rights and interests. The constitution must set out the complaint procedure for such disputes. Most sport organisations will need to review their existing provisions to ensure compliance.

11. Helpfully, the Act includes new provisions to enable societies to **merge and amalgamate**. They will make the legal process for merging or amalgamating simpler and more efficient.

As Mark von Dadelszen opines, “*The new requirements placed on incorporated societies by the new Act (the trade-off in return for the benefits of incorporation) will be onerous for some and may prompt some fundamental consideration by some societies.*”³⁹

However, care must be taken before discarding the incorporated society structure especially for sport organisations. The incorporated society has many benefits including that it:

- creates the necessary legal relationship between the organisation and their members, removing the need for separate agreements with each participant on each matter applicable to them to bind them to rules and policies such as codes of conduct;
- creates accountability through democratic election processes, AGMs, reporting obligations, and under the new Act, the provision of information to members;
- enables those closest to communities to make decisions for their communities;
- enables sports organisations to be tax exempt as an amateur sport, as such exemption only applies to “clubs, societies, associations or trustees of a trust”.

A move away from using an incorporated society therefore creates a number of other challenges (most notably not having jurisdiction over its members for sporting reasons) which are not easily replaced by another type of legal entity. However, there is certainly the ability within an incorporated society to revisit the structure of sport and recreation organisations.

37 To be qualified as an officer (to sit on the committee) the person must not be under 16 years of age, not an undischarged bankrupt, not prohibited from holding office, not convicted of certain serious offences in the last seven years and to meet any other requirement in the constitution.

38 A “small society” is one which has total operating payments of less than \$50,000 ; total current assets of less than \$50,000 in each of the two preceding accounting periods, and is not a donee organisation.

39 “The New Incorporated Societies Act”, 8 April 2022 <https://nzplaw.co.nz/the-new-incorporated-societies-act-guide-for-societies/>.



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