

GUIDANCE MATERIAL

DEED OF TRUST TEMPLATE (MIXED COUNCIL / CONSUMER TRUST MODEL OR CONSUMER TRUST MODEL)

BACKGROUND	<p>The Local Government (Water Services) Act 2025 enables:</p> <ul style="list-style-type: none"> • councils to establish consumer trusts to own, or co-own alongside council(s), a water organisation ("Water Organisation") on behalf of consumers; and • consumers to elect trustees to consumer trusts. All trustees to consumer trusts must act in the interests of the consumers of the water organisation. <p>A Water Organisation wholly-owned by a consumer trust is the model of water services delivery most independent from council, both in terms of finance and governance, as the relevant council(s) would have no involvement in governance of the Water Organisation on an ongoing basis. Instead, the trustees would perform the roles and responsibilities of the shareholders in the Water Organisation.</p>
WHO IS THIS TEMPLATE FOR?	<p>Councils who wish to utilise a consumer trust model or mixed council / consumer trust model to deliver water services. This template is particularly for a charitable consumer trust but can be amended to provide for a non-charitable consumer trust.</p>
PURPOSE OF THIS DOCUMENT / TEMPLATE	<p>This template contains the basic content of a Deed of Trust. This Deed of Trust:</p> <ul style="list-style-type: none"> • makes the declaration of trust by the Settlor council(s) of the Trust; • provides for the purpose, structure and governance of the consumer trust; and • establishes the powers and obligations of the trustees. <p>Pursuant to the Local Government (Water Services) Act, this Deed of Trust sets out (among other matters):</p> <ul style="list-style-type: none"> • the sole purpose of the Trust; • that trustees must be elected by consumers; • restrictions on transfer of shares except to a local authority or another consumer trust; and • restrictions on varying the Deed of Trust.
KEY CONSIDERATIONS FOR COUNCILS	<p><i>Before completing this Deed of Trust, councils should have:</i></p> <ul style="list-style-type: none"> • determined whether to utilise a mixed council / consumer trust or full consumer trust model; • determined whether its water services delivery arrangement is eligible to be registered as a charitable consumer trust; • decided who would fulfil each role in the Deed of Trust (ie Initial Trustees); and • consider source of funding for administrative costs of running the trust.

After adopting this Deed of Trust, Initial Trustees should:

- complete the Initial Trustee Resolution;
- prepare to hold the first trustee election in accordance with the Deed of Trust; and
- consider preparing any other policies that would help with the management of the trust (eg Code of Conduct, Guidelines for Access to Trust Information by Consumers).

How to use this document / template

Read the Trust Deed Template and fill out any highlighted gaps (e.g. name of Water Organisation). Council(s) will have to make decisions on the following key issues to complete this template:

DECISION	
<i>Mixed or full consumer trust model</i>	<input type="checkbox"/>
<i>Charitable or non-charitable trust</i>	<input type="checkbox"/>
<i>If mixed council / consumer trust model:</i> <ul style="list-style-type: none"> • <i>allocation of shares between Council(s) and consumer trust;</i> • <i>responsibility for appointing representatives to the Shareholder Council e.g. will this directly reflect share allocation or not?</i> 	<input type="checkbox"/>

The Department can provide further information or support to councils if required. Please contact wmdp@dia.govt.nz

Please note that neither this guidance nor the Trust Deed Template attached constitute legal advice. If unsure as to their position on any matter, councils should consider obtaining their own independent legal advice.