

Legal Responsibilities

This information sheet does not constitute as *Legal Advice*, and it is recommended organisations seek their own independent legal advice.

Community organisations and clubs have legal obligations and responsibilities to protect the rights of themselves and their members including:

- ✓ Incorporation
- ✓ Privacy
- ✓ Duty of Care
- ✓ Equal Opportunity – Protection from Discrimination, Harassments or Sexual Harassment
- ✓ Human Resource/Wage rates and conditions
- ✓ Workplace Health and Safety
- ✓ Financial Reporting Requirement
- ✓ Food Safety and Handling
- ✓ Liquor Licencing
- ✓ Gaming Regulations

Duty of Care

All committee members owe a *duty of care* once they agree to be a committee member of an incorporated body. This duty of care is summarised in five (5) legal statements:

- ✓ A duty to act in good faith
- ✓ A duty not to gain advantage by improper use of your position
- ✓ A duty not to misuse information
- ✓ A duty to act with diligence and care
- ✓ A duty not to trade while insolvent

Incorporation

The law does not recognise a club or association as having any legal existence in its own name unless it is incorporated by law. Incorporation means that members of an organisation are not personally liable for its debts. Government and non-government grants are often excluded to incorporate bodies. Once incorporated, clubs need to comply with the Associations Incorporation Act.

Being incorporated usually protects individuals within it, provided it operates within acceptable business and community standards. The most important aspect of incorporation is that office bearers and members are not personally liable for the debts of the organisation or the negligent acts or omissions of other office bearers and members. Incorporation is often a prerequisite for obtaining a grant from Local, State or Federal Government and unincorporated organisations are excluded from holding a Public Liability Cover. With the organisation having a legal existence, it:

- ✓ Exists as a separate legal entity, regardless of change of membership
- ✓ May enter into contracts in its own right, including tenancy or lease agreements
- ✓ May own land and other property
- ✓ Has the ability to sue and be sued
- ✓ May borrow money and accept gifts and bequests