

Your responsibilities as an incorporated association

Background

Incorporated associations are usually small bodies of people or clubs such as kindergartens or childcare centres that wish to have a legal status. These responsibilities apply regardless of your management type (independent committee or cluster managed site).

The benefits of incorporation are:

- Any liabilities of the incorporated association are enforceable against the association and not against the committee members personally.
- The association can sue and be sued in its own name.
- The association can hold property in its corporate name without appointing trustees.
- The association can enter into contracts in its corporate name such as service and funding agreements and building leases.

Overview of Responsibilities

While incorporation is voluntary, once incorporated an association must abide by the *Associations Incorporation Act 1981* and the Associations Incorporation Regulations 1998, which provides a standard for operation.

The *Associations Incorporation Act 1981* specifies requirements in relation to the:

- Display of the certificate of registration and use of the registered name and number, (Part 3 – Names and Registered Addresses).
- Completion of an Annual Statement within one month of the AGM.
- Holding of an AGM, (within five months of the end of the financial year) (Part 6 – General meetings and Accounts).
- Rights and liabilities of members of an Incorporated Association (Part 4 – Effects of Incorporation).
- Procedures to follow if the association needs to wind up. (Part 8 – Winding Up and Cancellation).
- Maintenance of financial records (Associations Incorporation Regulations 1998).
- Fees and forms (Associations Incorporation Regulations 1998).
- Duties of committee members (Part 5 – Management).
- Constitution (Model Rules), what must be included in your constitution and the processes for making any changes (Part 4, Section 21, 22).

What is a Constitution?

A constitution is a legal document which provides the framework for the operation of the association. It is sometimes called the 'Model Rules/Statement of Rules'.

The constitution sets out the:

- Name of the association
- Definition of a member of the association
- Procedures for committee and general meetings including notification, voting and quorums
- Number of committee members and any specific positions on the committee
- Powers of the committee of management

- Procedures for handling grievances
- Procedures for disciplining members
- Procedures to follow when winding up the association
- Financial year
- Requirements for keeping a register of members
- Source of funds and the way funds are managed.

It is important that all committee members are aware of and are familiar with their constitution. If possible all committee members should have a copy of the constitution or at least know where to find a copy. The constitution should be brought to every committee meeting.

Failure to abide by the constitution or to trade while insolvent could incur significant penalties for the members of the committee. The constitution should be reviewed from time to time to ensure the 'Statement of Purpose and Rules' reflects the direction and practice of the association.

Compliance

Associations Incorporation Act 1981

Associations Incorporation Regulations 1998

Constitution of your association

Where to get more information

Consumer Affairs Victoria website: www.consumer.vic.gov.au

KPV model constitution

Our Community website

www.ourcommunity.com.au/management/view_help_sheet.do?articleid=15