

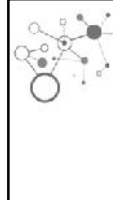


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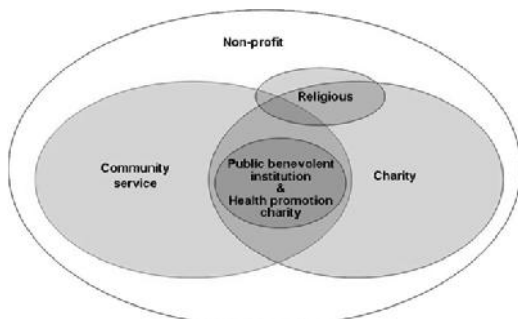
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Leisa Donlan FSAE

## The Excellent Club Committee

- This presentation reflects the laws and practice as at August 2012. It is general in nature, and does not purport in any way to be comprehensive or a substitute for specialist legal advice in individual circumstances.



## Non Profit Make Up



Non-profit

Religious

Community service

Charity

Public benevolent institution & Health promotion charity

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## Why So Many Laws?

- Australia's NFP sector is large & diverse (about 600,000 entities) which serves the community in a range of economic, social, cultural and environmental areas.
- Of these, around 60,000 are charities (21,000 with DGR status as at July 2011).
- About 5,000 of these charities are constituted as companies limited by guarantee.
- About 136,000 NFP incorporated associations were registered with States & Territories in Australia in the 2008-09 financial year.
- About 440,000 organisations are small unincorporated NFPs.

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Pro Bono AUSTRALIA  
The online Hub for people engaged with Australia's NFP sector

NEWS • JOBS • SOURCE • EVENTS • VOLUNTEER • FIND NOT FOR PROFIT ORGANISATIONS

Not for Profit organisations & Charities underpin Australia's community.

With over 600,000 organisations operating nationally, more than 1 in 15 Australians work for either a Not for Profit or a charity.

Here at Pro Bono Australia, we have developed an online hub for people who want to know more about our national community sector; whether that be which charities offer which services, what Aussie businesses are doing within their community, what volunteering opportunities there may be, what jobs are open and of course, as the major News Service for the sector, the latest news affecting the sector.

PRO BONO News

facebook YouTube Twitter LinkedIn Blogger

PRO BONO Guide to Giving

The Australian Directory of Not for Profit Organisations

Search the directory

## Not For Profit Is Big Money

- **Support of NFP Sector by Community:**
- Total philanthropic donations to sector were \$7.2b in 2006-07.
- Estimated value of \$14.6b was provided in volunteer time.
- **Indicative Government Support for NFP Sector:**
- Direct Government funding (\$25.5b in 2006-07) including education, health and welfare funding
- Tax Expenditure (quantifiable \$3.3b in 2010-11 and unquantifiable to similar magnitude amounts) via tax concessions).
- Tax concessions for NFPs vary between states and territories. Typically, there are exemptions from stamp duty, payroll tax, land tax and rates available.
- May 2011– Government announcement of \$53.6m funding over four years to establish “one-stop-shop” for the support and regulation of NFP sector through the creation of the ACNC and related structural changes required to the ATO.



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## The ACNC



## Implications For NFPs

- The NFP sector in Australia is on the verge of undergoing much change and all NFPs need to keep abreast of those changes for numerous reasons, but most importantly to ensure that they are legally compliant at all times.
- NFPs wishing to register (assuming that registration remains voluntary at least in the short term) with the proposed ACNPC next year may find themselves having to justify the endorsements that they currently enjoy.
- If the ‘in Australia’ special conditions are changed as proposed, this will result in many NFPs suddenly discovering that they no longer comply with this requirement and, as a result, will no longer be income tax exempt or DGRs.



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## A Change of Heart

The 2010 Productivity Commission Report into the Contribution of the Not for Profit Sector said that Not-for-Profits have greater difficulty than commercial entities in accessing funds for investment and that this constrains innovation.

The Henry Tax Review released last year stated The income tax and GST concessions [of charities] generally do not appear to violate the principle of competitive neutrality where NFP organisations operate in commercial markets. ....”

The current Treasurer responded to the Henry Review that the Government would not implement any changes that would harm the Not for Profit sector including removing tax concessions. He has had a change of heart.



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## Changes in ACNC 2.0

- Recognises the special role played by small religious charities in the Not-For-Profit sector and relieves them from some onerous and burdensome requirements.
- Monitoring and enforcement powers of the ACNC have been reduced and redefined. However, the trigger for the Commissioner is still based on the undefined and vague concept of promoting "public trust and confidence" in charities.
- It is no longer necessary for medium registered entities (i.e. revenue between \$250,000.00 and \$1 million pa) to have their financial statements reviewed by a registered auditor.
- The Bill allows for collective and joint reporting for annual information statements, annual financial reports or both.
- The first financial report required for medium and large entities will relate to the 2013-14 financial year and will need to be lodged by 31 December 2014.
- The first annual information statement will relate to the 2012-13 financial year and will need to be lodged by 31 December 2013.

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## ACNC

- The Government announced on 17 May 2012 the financial reporting framework and governance standards, including the external conduct standards, will commence on 1 July 2013. This follows further public consultation on the content of financial reports and the governance and external conduct standards.
- The two-staged approach means that the financial reporting requirements and governance standards for registered charities will not come into effect until 1 July 2013.
- The Government said the extended start date will give more time for charities to transition to the new regulatory framework and for the ACNC to provide guidance materials to help with the transition. The first financial reports will not need to be lodged with the ACNC until 31 December 2014.

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## Problems in ACNC 2.0

- Until such time as agreement can be reached with the States and Territories, the stated ideal of the reduction in red tape is unlikely to be realised. In fact, in the short term it is likely that there will be an increase in reporting requirements.
- Unfortunately, the governance requirements have not been specified in the Bill but will be subject to regulation. When the regulations are made, these standards will apply from 1 July 2013.
- Makinson & d'Apice Lawyers have a great newsletter

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## Some Of The Relevant Laws

- Corporations Law
- Associations Incorporations Act
- Trade Practices Act
- Civil Liability Act
  - Liquor & Alcohol Service
  - Food Service
  - Gambling or Gaming
  - Employees / Volunteers (PAYE, Superannuation, Discrimination, WH&S)
  - Taxation
  - Children
  - May be others depending on services offered

**METHODS OF INCORPORATION**

- ✓ Incorporated Association
- Unincorporated Association\*\*
- Company Limited by Guarantee or With Shares (ASIC)
- Charitable Trust\*\*
- Others

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## What Does That Mean?

**AS A COMMITTEE MEMBER YOU ARE REQUIRED TO**

- Duty to act in the interest of the members, so should operate independently and free from influence
- Act in good faith
- Exercise due care & diligence
- Ensure solvency
- Meet legislative requirements

**TOOLS TO HELP INCLUDE**

- Code of Conduct
- Conflict of Interest Policy
- Register of Related Party Transactions
- Insurance for officers & club
- Induction for new committee members
- Rules about managing information & other compliance issues

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## Your Legal Position

Any person elected or appointed to a position on the committee is considered a company director.

- Don't panic, you won't lose your house!
- Your constitution should clearly define who is a "committee" member.
- This includes entire committee, not just "the Executive".

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FIRST ON

DENNIS HOURIGAN CLUB MEMBER

Police called to bizarre stand-off

March 11, 2012: Police had to be called in to help end a bizarre stand-off at a small community club just north of Sydney.

Date: 11/03/12 Views: 2749  
Video by: News

Related Videos

Now Playing

Police called to bizarre st...

Toddler T Priest

Australia win silver in relay

Magnusson agonising

Related Links: Nine News Online

**Queensland Government**  
Office of Fair Trading

Home | Consumers | Businesses | Property agents and managers | Motor industry | Security industry

*Delivering a fair and safe Queensland marketplace*

**National business names register**  
National business names register commences 28 May. Read more [here](#).

**Carbon price claims**  
Read information about carbon price claims.

**I want to ...**

- [Check a licence](#)
- [Register a business name](#)
- [Learn how to protect myself from scams](#)
- [Check on the progress of my application](#)
- [Fill out a form](#)
- [Check my refund rights](#)
- [Make a complaint](#)

Fair Trading services are delivered by the Department of Justice and Attorney-General

Last reviewed 25/07/2012

## What Associations Must Do – AIAQ

**General Requirements**

- Maintain minimum seven (7) members
- Have a registered postal address (Sec 17)
- Ensure all documents show Association's name, including internal documents (Sec 32)
- Have a bank account and Keep all property in the club's name (Sec 24)
- Obtain appropriate public liability insurance (Sec 70)
- Keep a set of books & issue financial reports (Reg 9 & Sec 59)
- Control the Business and operations (Sec 60)
- Lodge an Annual Return (Form 12)
- Notify changes to OFT (From 10a)

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## Incorporated Association Levels

(After 15 June, 2007)

Level Details	Audit Requirements	Insurance Requirements
Level 1 Turnover or Assets Over \$100,000 per annum	Full Audit To The AIA	Must have public liability insurance Must advertise level of insurance
Level 2 Turnover or Assets Between \$20,000 and \$100,000 per annum	Accountant to confirm accounts (not full audit)	May choose not to have public liability Must advertise level of insurance
Level 3 Turnover or Assets Under \$20,000 per annum	Treasurer's Statement only (check with your organisation first)	May choose not to have public liability Must advertise level of insurance


## Obtaining Your Common Seal

- Contact Office of Fair Trading
  - Request copy of your Certificate of Incorporation
- Take the copy to a rubber stamp maker (most newsagents can help)
- Office of Fair Trading Ph: 13 13 04  
Monday to Friday 8 am to 6 pm

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## AIA1981 – Reporting

- Members can request annual financial statement. (28 Days) \$300 Fine.
- New model rules, update constitutions
- Act takes precedent over your rules.
- Membership list restrictions (no advertising).
- Minutes must be supplied on request (28 Days)
- Registration can be cancelled for failure to lodge annual report.
- Incorporation can be refused.
- English only for names & rules
- Using new technology for meetings.
- Casual vacancies, secretaries status & functions all clarified.
- OFT can request documents – failure to provide \$1,500 penalty.
- Quorum minimum changed.
- Six months to hold AGM after end of financial year.



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## Quorums

### What's A Quorum For Committee?

- Not necessarily four people, check your constitution
- May be percentage of those entitled to vote
- New model rules say half elected at AGM + 1


### What's A Quorum For General Meetings?

- New model rules say those elected at AGM plus one (natural justice) but you have to change your rules first!
- Refers to members entitled to vote




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## Privacy Amendment Act 2000

- The Act covers private sector 'organisations': an individual, body corporate, partnership, an unincorporated association or a trust.
- businesses (including nonprofit organisations such as sports clubs, charitable organisations and unions) with an annual turnover of more than \$3 million



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## Committees & The AIAQ

### Incorporated Associations Act - Incorporated Association Committees

- Require a minimum of three positions
- President cannot be Treasurer

### Committee Members Must Be

- Members
- Living
- 18 years or older
- Reside in Queensland if Secretary (65kms of border)
- Not be insolvent or a bankrupt
- Not be convicted of an indictable offence (In last ten years)
- Not be a mental patient within the legal meaning (Mental Health Act)



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## Nomination Form & Notice of AGM

**WHEN, WHERE & TIME OF MEETING**


**Nominations:**  
At the Annual General Meeting of the Association, all the members of the Board for the time being shall retire from office, but shall be eligible upon nomination or re-election. Any two members of the Association shall be at liberty to nominate any other member to serve as an officer of the management committee. Nominations for the Board are to be received by the Association in writing at least 14 days prior to the Annual General Meeting. The nomination to be signed by the member, the members nominator and seconder. Nominations can be made on another's behalf. If no written nominations are received, nominations will be taken from the floor. Should written nominations be received for each position, no nominations will be taken from the floor.

**Voting** will take place at the Annual General Meeting. For positions, where more than one nomination is received, voting will be by secret ballot.

**Meetings** of the committee will take place on the second Tuesday of every month. As a committee member you cannot miss more than two meetings per year without a leave of absence granted by the rest of the committee.

**To be eligible to serve on the Committee you must:**

- ✓ Be an adult and be a financial member of the Association.
- ✓ Not be a bankrupt or one who has compounded with their creditors or otherwise taken advantage of the laws in force for the time being relating to bankruptcy;
- ✓ Not be a person who is a patient within the meaning of the Mental Health Act 1974 or;
- ✓ Have been convicted of an indictable offence or of an offence punishable on summary conviction for which the person is sentenced to imprisonment otherwise than in default of payment of a fine.
- ✓ Agree to abide by the Committee Code of Conduct & any other policies of the Association.
- ✓ Understand you must make attending committee meetings a priority.




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## What Committees Must Do (AIAQ)

**For Members**

- Ensure a copy of the constitution is available to all members (Sec 53)
- Ensure financials reports are submitted to members at the AGM (Sec 59) according to Level Requirements
- Always ensure an appropriate Secretary is appointed (Sec 66)
- Ensure an AGM is held every year (Sec 56)
- Make sure the club complies with the rules (Sec 57)
- Keep minutes (Reg 9)
- Be aware of the duties of the Secretary and make sure they are carried out
- Share in the responsibility for financial monitoring
- Perform duties with care & skill
- Act in good faith
- Advise any conflict of interest



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## COMMITTEE NOMINATION FORM


To nominate for a position on the Committee, you must reply to the Association by 26th July, 2010 by faxing or posting this form.

I wish to nominate for the position of:

- ☐ President
- ☐ Vice President
- ☐ Treasurer
- ☐ Registrar
- ☐ Press Officer
- ☐ Secretary

I hereby confirm I am able to meet all the conditions stated in the Notice of Annual General Meeting and therefore eligible to serve on the Club's Committee.

My Name: \_\_\_\_\_ Nominated By: \_\_\_\_\_ Seconded By: \_\_\_\_\_



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## The Constitution

**Required Reading**

- States the rules of the business, not the rules of the Sport & Recreation.
- Tells you about membership rules – Ordinary, Other, Life
- Tells you about committee meetings & voting
- Talks about accounting procedures
- Is usually the "final point"
- Should be reviewed five yearly for conflicts or changes
- Can be changed whenever required by an easy process

Most clubs use a version written by the Office of Fair Trading called "the model rules" \* They don't automatically update!



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## Changing The Constitution

- Download the model rules from OFT (Model Rules is just the word OFT uses for a template constitution) [Latest version is here.](#)
- Make as few changes as possible
- Make sure the proposed change doesn't contravene the Act
- Notify members prior to the AGM according to your constitution
- Make the new rules available for inspection
- At AGM read motion & ask for comment
  - you may need to outline rules for comment
  - When comments are finished ask for vote
  - Remember this is a special resolution (75% majority to be successful)

REMEMBER If you use model rules they don't automatically update!



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## Membership Definition

### CLASSES OF MEMBERS

- (1) The membership of the association shall consist of ordinary members, and any of the following classes of members-
- (2)(a) associate members;  
(b) life members;  
(c) honorary members.
- (3) The number of ordinary members is unlimited.



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## Model Rules +

- Generally model rules are excellent solution for most clubs
- Consider a few changes
  - Eliminate Proxies
  - Membership fees should be defined by committee not members
  - Membership should automatically increase by rate of CPI each year
  - Clarify membership categories & voting rights



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## Membership Definition

Member Type	Definition	Vote	Fee
Players	Adult players registered each year to participate in the sport	Yes	\$10.00
Juniors	Players under 18 who are registered each year to participate in the sport	No	\$10.00
Caregivers	Nominated representative of each family who has registered junior players. One only per family.	Yes	\$0.00
Community	Those who are not directly involved in the sport who support the club	Yes	\$0.00
Life	Approved by the members at General Meeting according to Clause 5.3	No	\$0.00




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## Types of Meetings

- Management Committee Meetings**
  - Committee only
- General Meetings** (Regular, Special or Annual)
  - Involve all members
  - Can be called by members
- Subcommittee Meetings**
  - Delegation from committee
  - Focus on single issue




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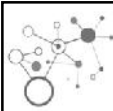



## The Chair Recognises.....

- No required meeting system
- Different groups meet in different ways
- Formal systems
  - Roberts Rules of Order (Adversarial)
  - Cross Examination Debate (Adversarial)
  - Parliamentary System (Adversarial)
  - Nominal Group Meetings (New System)
- Informal systems




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## 6 Vitals of AGM

- Attendance Register
- Reports (May be President, Committee or other)
- Financial Reports or Audit
- Level of Insurance
- Appoint or endorse auditor
- Election



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## At The AGM

**Special Resolutions Are**

- Decision to Incorporate (Sec 6)
- Change of Name (Sec 35)
- Change to the Rules (Sec 48)
- Decision to wind up (Sec 89)


**Tasks At The Meeting**

- Ensure proxies or voting rights are established when people enter the room (better to ask them to be sent to the electoral office before the meeting)
- Make sure everyone signs the attendance register & keep a copy!
- Address the agenda & notified resolutions only (if you allow proxies, you can't change anything even if no proxies come back)
- Ensure "handover" takes place properly eg someone is there to chair the meeting during elections
- Don't forget you need a 75% majority of eligible voters for a SPECIAL resolution to be passed (No postal votes are allowed for special resolutions)
- Allow enough time for questions on the audit or financial reports
- For ordinary resolutions (everything other than Special) use the rules in your constitution

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## Postponing AGMs


**What If We Don't Have A Quorum Or Our Audit?**

- Committee Meetings
  - Those present may be able to continue and have decisions endorsed by rest of committee
  - Try not to adjourn a committee meeting if possible
- General Meetings
  - If you need to adjourn follow your constitution

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## The Annual General Meeting

- Let's Talk About Proxies
  - Most "rules" give a choice of two kinds
    - Specific yes or no
    - Power of a vote
  - Both responses need careful management and a system to ensure they work legally
  - You need a minimum of two officials to count
  - CHECK YOUR RULES ABOUT WHO CAN BE A PROXY, IT MAY NOT NEED TO BE SOMEONE WHO IS A MEMBER!!

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**Incorporated Associations**

Smart Business Guide  
A guide to operating an incorporated association in Queensland.



## Member Expulsion

- Committee decided they did not want a member to continue & advised they were out
- Member launched legal action
- Judgement found club did not use the processes within their constitution
- Judgement included compensation plus costs
- REMEMBER always follow your constitutional processes



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## Blue Cards

- Every committee member must have one
  - Children & Young People & Child Guardian Act  
S109(2) If the person is a corporation, each **executive officer** of the corporation whose principal place of residence is in Australia must have a current positive notice.  
Maximum penalty—500 penalty units or 5 years imprisonment.
  - Executive Officer, of a corporation, means any person, by whatever name called and whether or not the person is:
    - A director of the corporation, who is concerned or takes part in
      - the management of the corporation.



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## Blue Card Exemptions

- Other parents are exempt
  - *(unless they are committee members)*
- Volunteers must apply before they start
- Police & Teachers may have to have an exemption card now
- Club must have written policy for child protection
  - *(not just blue cards)*
- Penalties are up to \$50,000
- Ensure a committee members is aware of your club's responsibilities & makes sure you meet them
- Get more info on [www.ccyppcg.qld.gov.au](http://www.ccyppcg.qld.gov.au)




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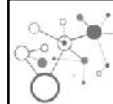
## Child & Youth Risk Management Strategy

To comply with the requirements that are set out in the Commission's legislation, a child and youth risk management strategy must include:

- A statement of commitment
- A code of conduct
- Policies for recruiting, selecting, training and managing employees (including volunteers)
- Procedures for handling disclosures and suspicions of harm
- A plan for managing breaches of your child and youth risk management strategy
- Policies and procedures for compliance with Chapter 8 (screening requirements)
- A risk management plan for high risk activities and special events
- Strategies for communication and support


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## At The Club (Private Ground)

- Owner or operator can restrict, ban or require permission of photography
- Some clubs ban all photography, even by parents
- Challenge is most parents & children like to see images made public
- Can request a person to stop and if they refuse call police to escort them off the property

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## Images of Children On Web

No law against taking photos in public as long as images are not

- Indecent
- Being used for voyeurism
- Protected by a court order
- Defamatory
- Being used for commercial purposes
- Child in a provocative or sexual manner


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## Policies On Images

- Clearly outline what is appropriate
- Do not allow unsupervised access to children
- Obtain written consent of parent to use photo
- Provide details of who to contact regarding images shown online
- Use models or illustrations for "advertising"
- Avoid using child's full name
- "Lock" picture to avoid copying
- Research
  - [Australian Sports Commission Images of Children](#)
  - [National Child Protection Clearinghouse resource sheet - Images of children and young people online \(2010\)](#)
  - [Briefing paper - photographs and images of children \(CPSU resource\)](#)

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## How Much & By Where

- A total of \$1,071,851 of fraud was suffered by organisations, surveyed representing an average of \$14,291 per fraud in 2010 (Extrapolates to over \$1B per annum)
- 36% of organisations in the development & housing category suffered fraud
- The largest number of frauds occurred in the Social Services grouping
- The most common type of fraud reported was cash theft (24%)
- The average duration of the fraud was ten months.



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## Who Does It & Why

- A typical fraudster is in his/her thirties or forties and is a paid employee in a non-accounting role
- 12% of fraud was committed by unpaid volunteers
- Collusion was present in 24% of reported frauds with the typical colluder a male in his thirties in a paid non-accounting role
- Respondents indicated that financial pressures and maintaining a lifestyle are the most common motivators for fraud
- The presence of volunteers among the workforce of not-for-profit organisations does not appear to increase the risk of fraud occurring



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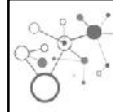


## Preventing & Detecting

- Internal controls (40%) and tip offs (31%) were the most effective way of discovering fraud
- Strong internal controls (79%), ethical organisational culture (75%) and external audits (75%) were considered to be the primary factors in reducing the risk of fraud
- Of the respondents that reported fraud, 40% had discovered the fraud through internal controls and 31% had discovered the fraud through tip offs
- Of the organisations that perceived fraud as a problem for the sector but not for their individual entity, 68% placed reliance on fraud being discovered by external audits
- Of the respondents that had experienced fraud, 33% of organisations believe that some fraud is still undetected

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## Centro (Duty of Care) Inaccurately described debt

1. Justice Middleton of the Federal Court of Australia held that each of the directors, both the executive and non-executive, had breached their duty of care and diligence by failing to: (a) take all reasonable steps to focus and consider for each of themselves individually the content of the financial statements; and (b) make enquiries of management, the committee audit committee or other directors as to proposed statements in the financial statements.
2. *"Directors are entitled to delegate to others the preparation of books and accounts and the carrying on of the day-to-day affairs of the company. What each director is expected to do is take a diligent and intelligent interest in the information available to him or her, to understand that information, and applying an enquiring mind to the responsibilities placed upon him or her... Because of their nature and importance, the directors must understand and focus upon the content of financial statements, and if necessary, make further enquiries if matters revealed in these financial statements call for such enquiries."*
3. *"Directors cannot substitute reliance upon the advice of management for their own attention and examination of an important matter that falls specifically within the committee's responsibilities as with the reporting obligations."*

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## Responding

- The majority of respondents did not report the fraud to police
- 36% of organisations did not terminate the employment of the person who committed the fraud
- 67% of organisations that suffered fraud did not recover any of the funds from the perpetrator

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## Monthly Financial Reports

At least original bank statement & cash book report

Best option

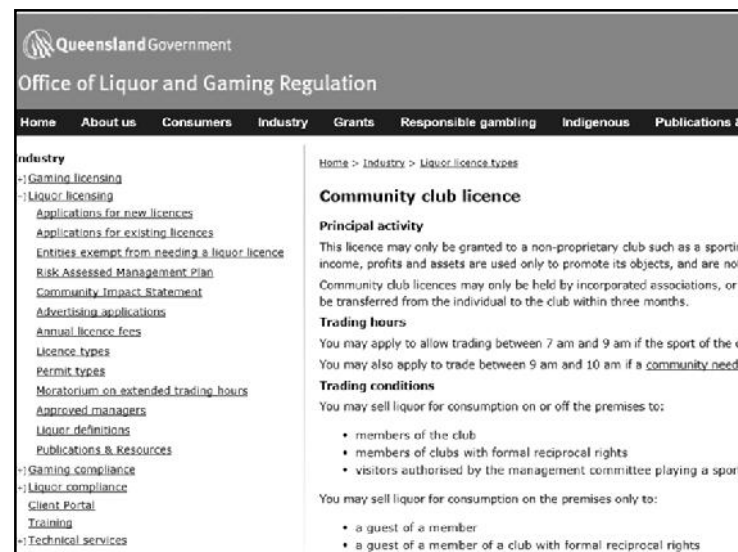
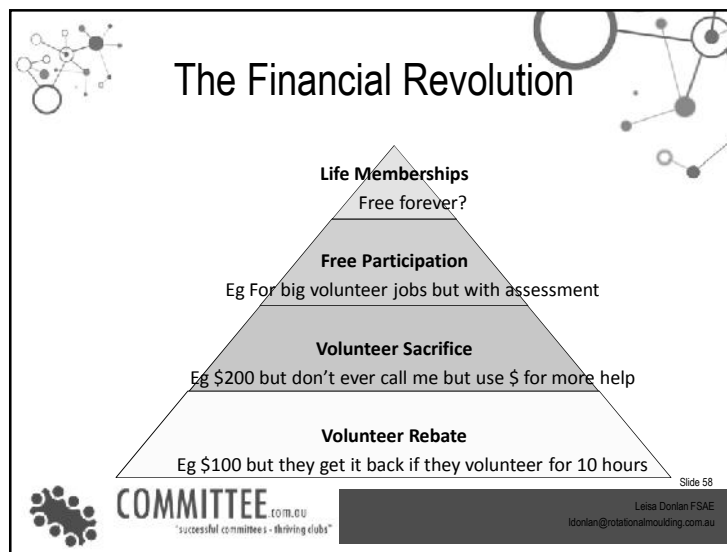
- Profit & Loss Year to Date Vs Budget
- Balance Sheet
- Outstanding Debtors
- Outstanding Creditors
- Bank Reconciliation
- Cash Flow


Free Software

- [www.ato.gov.au/nonprofit](http://www.ato.gov.au/nonprofit)

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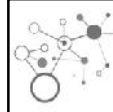
## Obtaining A License

- This licence may only be granted to a non-proprietary club such as a sporting club, RSL club or ethnic club. The *Liquor Act 1992* defines a non-proprietary club as an association where any income, profits and assets are used only to promote its objects, and are not distributed to its members.
- Community club licences may only be held by incorporated associations, or unincorporated associations with an individual to hold the licence on their behalf. Upon incorporation, the licence must be transferred from the individual to the club within three months.

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## RSAs & Volunteers


### Community club and community other licence

- If the service or supply of liquor is provided only by volunteers, you must ensure that there is a person with current responsible service of alcohol training on the premises to supervise the volunteer staff. (Must be present at the bar)

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## Liquor Trading Conditions

You may sell liquor for consumption on or off the premises to:

- members of the club
- members of clubs with formal reciprocal rights
- visitors authorised by the management committee playing a sport that is part of the club's business, including teams and officials, for the day on which the sport is played only.

You may sell liquor for consumption on the premises only to:

- a guest of a member
- a guest of a member of a club with formal reciprocal rights
- an applicant for membership for 30 days after receipt of application
- an interstate or overseas visitor
- a visitor who resides at least 15 km from the club
- a person attending a function on the premises.


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## Competitions & Raffles

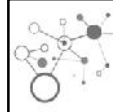
Art unions, raffles, bingo, lucky envelopes, calcutta sweeps and promotional games are regulated by the *Charitable and Non-Profit Gaming Act 1999*. Under the Act these different games are broken into category 1, 2, 3 and 4 games.

**Category 1, 2 and 3 Games**

- may only be conducted by non profit associations.
- are categorised by the estimated gross proceeds (ticket sales). An association intending to sell more than \$20,000 worth of tickets must apply for a Category 3 Gaming licence.
- Restrictions on prizes (more than \$10,000 cash, surgery, tobacco, weapons, casket tickets etc)
- No permit or license necessary




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## Casino Nights

- You cannot obtain a permit to conduct a Funny Money or Casino Night.
- This type of activity is an "unlawful game" under the *Criminal Code Act 1899* if players risk a stake on the outcome. This includes players, at the conclusion of an event, using the chips or "funny money" to bid in an auction, or if the player with the highest number of chips receives a prize.
- However, if the method of playing or conducting such events is modified to remove the element of any player risking a stake on the outcome so that players play for entertainment only, then unlawful gaming will not occur.
- The *Criminal Code Act 1899* is enforced by the Queensland Police Service. If you are in any doubt of what constitutes an unlawful game, you should obtain independent legal advice before conducting a funny money or casino night.



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## Category 1, 2 & 3

**Does my club require a licence or permit to conduct small raffles?**

- No. A club can conduct small raffles (art unions) up to \$2,000 without any licence or permit. However, if the club is an "eligible association" it can conduct raffles up to \$20,000 without any licence or permit. See Section 10 of the *Charitable and Non-Profit Gaming Act 1999* for meaning of "eligible association".

**Do we need a permit number on our raffle tickets?**

- Not for Category 1 ticket sales up to \$2,000 or Category 2 games ticket sales up to \$20,000. A licence number must be printed on all Category 3 games where the ticket sales are estimated to exceed \$20,000.


**Is there a limit on the number of tickets you can sell in a raffle?**

- The total value of prizes in any raffle must be at least 20% of the estimated gross proceeds (total ticket sales). In simple terms if the prize is valued at \$20.00, the maximum permissible ticket sales is \$100.00.

**Can children play bingo?**

- Yes, with restrictions on prizes (eg alcohol)

**Can we sell 3 x \$2 tickets for \$5 in Category 1, 2 or 3?**




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## Charitable and non-profit gaming

### Responsible Gambling Resource Manual



## Use Digital Voice Recorders

(\$90 - \$250)

### Invasion of Privacy Act Sec 43 (1)

- Can tape if you are a party to the conversation.
- Club should have written guidelines that meetings will (or will not) be recorded.

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## Australia's Privacy Act

- New draft 7 of the act is controversial
- Rules around "prohibition" on direct marketing
- Opt-out requirement for each campaign (rather than database) works for traditional media but not social media

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## *Carberry v Drice as Rep of Brisbane Junior Rugby Union*

A group (comprised of incorporated and unincorporated associations and referred to throughout this bulletin as the Respondents), whose objects were to regulate and control Rugby League in Queensland, had conducted internal disciplinary proceedings against Mr Carberry, the applicant. These internal disciplinary proceedings arose because Mr Carberry punched a volunteer first aid officer in the face at a junior rugby game on 1 June 2003. The internal disciplinary proceedings resulted initially in Mr Carberry being suspended from any involvement with Brisbane Junior Rugby Union, including his involvement as a coach (for which he was paid to some extent), and ultimately his exclusion from Rugby League grounds for life. Mr Carberry sought to challenge the validity of the internal disciplinary proceedings, alleging that the various decision makers lacked the requisite power to make these determinations and that he had been denied procedural fairness. Mr Carberry sought pecuniary damages, declarations and injunctions.

THE COURTS WILL INTERFERE IN AN ASSOCIATION WHEN

- a. there has been a breach of contract (usually limited to membership issues where the contract being breached is the constitution or rules of the organisation);
- b. a proprietary right has been infringed; or
- c. someone's livelihood or reputation is at stake

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## Social Media Policy

- Written policy on use of social media between club members
  - Consider including cyber bullying via email
  - Sending of inappropriate text messages
  - Posting inappropriate or bullying messages on social media portals (Facebook)
- Monitor social media for problems and encourage members to report them

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## What Should Be Audited

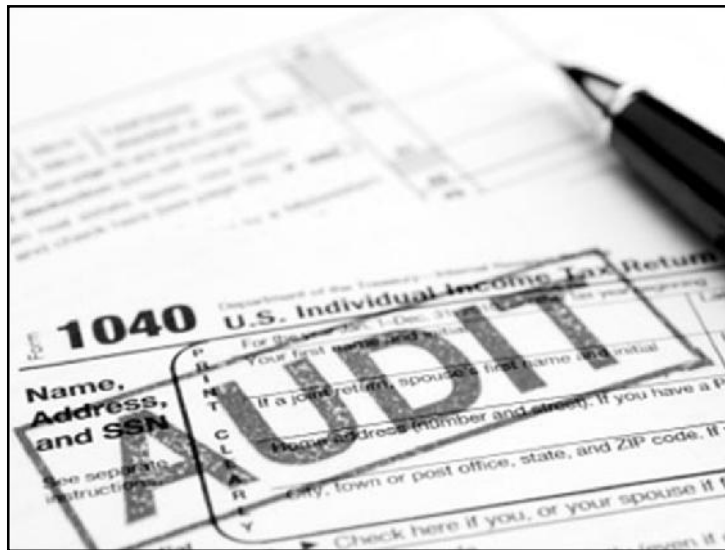
- Financial Records
- Minutes of Meeting
- Asset Lists

**Cost of Audit?**

- Anything from \$0.00 to \$3,000.00 depending on cost & activity is reasonable for most clubs
- Huge turnovers & lots of transactions will be more expensive

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## Understand For Your Audit


**Notes To Accounts - Qualified Audit**

- Except For: auditor disagrees with committee on accounting policies but doesn't warrant adverse opinion.
- Adverse: when effects of disagreement are material and there is misleading or incomplete information
- Disclaimer: limitation is so material the auditor is unable to express an opinion.


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## Tax Free Status




- Awarded by the ATO on request of your accountants or self assessed
- Relevant if income comes only from members
- Can be repealed by ATO
- Cost savings in accounting
- Isn't affected by registration for GST




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## GST



- If your non-profit organisation has a GST turnover of \$150,000 or more (or \$75,000 for organisations that are not non-profit), it must register for GST.
- If your organisation has a GST turnover of less than \$150,000, it can choose to register for GST. The decision to voluntarily register for GST should be made based on the administrative needs of your organisation.
- Generally, an organisation that registers for GST must then stay registered for at least 12 months, even if its GST turnover is less than \$150,000.



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## GST & Fundraising

For a payment to be a gift it must (1) be made voluntarily (2) not provide a material benefit to the donor, and (3) be made in a spirit of generosity, with no expectation of receiving anything in return. (No GST)

For events, you must pay GST on the full amount of the ticket price, even if you intend to donate part of the ticket price to a non-profit organisation.

**Example:** Marie attends a '\$1,000 a plate' dinner. Even though the value of the meal is \$100, GST is payable on the ticket's full purchase price of \$1,000 as Marie was required to pay \$1,000 to attend the dinner.

**Example:** Sally attends a charity auction and buys a clock. The clock is valued at \$500, but Sally pays \$1,000. No part of the \$1,000 can be treated as a gift. While the clock is only valued at \$500, Sally had to pay \$1,000 to purchase it. Therefore Sally has not made a voluntary payment without material benefit and the total \$1,000 payment is subject to GST.




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The screenshot shows the Australian Taxation Office (ATO) website. The main navigation bar includes links for 'For educators', 'Careers centre', 'About us', 'Contact us', 'What's new', 'Feedback', and 'A-Z index'. The search bar is at the top right. The 'Non-Profit' section is highlighted in the main menu. The page title is 'Induction package for non-profit administrators'. The content area includes an 'Introduction' section with a tip to use the 'Printable version' when printing the complete document. A table of contents is visible on the right side of the page.



## GST & Raffles

You make a gambling sale if you either:


- sell tickets in a lottery, raffle or similar undertaking
- accept bets relating to the outcome of a gambling event.
- (A ticket is anything that gives the buyer the right to be placed in a draw for a prize).

Gambling events include:

- lotteries, raffles, or similar activities
- races, games, or sporting events, or any other event where you can win or lose money, goods or services depending on the outcome.

Gambling sales are taxable, but you only apply GST to your margin - not to individual gambling sales.

**Example:** Ronnie, a bookmaker, receives \$86,000 in bets at the races and pays out \$20,000 in cash prizes in one tax period. The margin on Ronnie's sales for GST purposes is \$66,000 (\$86,000 - \$20,000). Ronnie must pay \$6,000 GST (\$66,000 x 1/11) on his gambling sales for this tax period.



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## Manage Risk of Behaviour

Parents could face rugby league ban after sons see father Gary Harding brutal bashed

By Ben Hynes The Daily Telegraph July 25, 2007 7:00am

Parents could face rugby league ban after sons see father Gary Harding brutal bashed

Rugby league has warned that parents who witness or are involved in violent incidents at matches could face a ban from the sport. The NSW Rugby League has endorsed the idea that parents who witness or are involved in violent incidents at matches could face a ban from the sport. The NSW Rugby League has endorsed the idea that parents who witness or are involved in violent incidents at matches could face a ban from the sport.

Mr Harding, 42, was taken to hospital after being punched in the face by a fan during a match. He was taken to hospital after being punched in the face by a fan during a match. He was taken to hospital after being punched in the face by a fan during a match.

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## Soccer player dies after getting hit by lightning

Associated Press  
Posted: 2 hours ago

**COPENHAGEN, Denmark (AP)** - A 17-year-old soccer player hit by lightning during an amateur game has died, police said.

The victim, whose name was not immediately released, died early Monday. Lightning hit the teenager while he was playing for Ulfborg against Næstved at a tournament Saturday. Nine other players were knocked over.

"There were no clouds on the sky. Only a black cloud far away," Næstved goalie Kasper Stenhus told the daily Dagbladet Hørsens Stjerne. "Suddenly he was just hit. Out of nothing."

Paramedics revived the teenager, who had severe burns, and rushed him to a hospital with four other players. They have since been discharged.

The game was played in Ulfborg, 305 miles northwest of Copenhagen. Lightning struck 10 minutes before the first whistle and the game was canceled.

### A Boy Dies Playing Basketball

By Associated Press  
Posted: 2 hours ago

A 17-year-old boy collapsed while playing basketball in a hallway, according to a local newspaper. He died later at a local hospital.

The boy was identified as James Ellis, of the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C.

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### Teen dies playing hockey

By Associated Press  
Posted: 2 hours ago

A 17-year-old boy collapsed while playing hockey in a hallway, according to a local newspaper. He died later at a local hospital.

The boy was identified as James Ellis, of the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C.

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### Heart swap sports star dies playing in cricket match

By Associated Press  
Posted: 2 hours ago

A 17-year-old cricket player died while playing in a match. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C.

The player was identified as James Ellis, of the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C. He was playing for the Winston-Salem, N.C.

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## Deaths & Law Suits

- On May 7, 2007, Hayden Ellis attended soccer practice for the Winchester United Under 10 boys soccer team at Millbrook High School in Frederick County, Virginia. The field where the practice took place had two moveable soccer goals at opposite ends of the field. During a scrimmage with the Winchester United Under 11 girls team, Hayden, who was the goalie, was struck on the head and neck when the portable soccer goal tipped over, killing him.
- The lawsuit was filed against Porter Athletic Equipment Company, manufacturers of the goal; Howard Shockey & Sons, installers of the goal; Phil Pappas, architect; OWPR, Inc., an architectural firm; and five soccer associations, the Blue Ridge Youth Soccer Association, Inc., Virginia Youth Soccer Association, Inc., Old Dominion Soccer League, Inc., United States Youth Soccer Association, Inc., and United States Soccer Federation, Inc.
- The complaint alleges that each defendant knew or should have known of the dangers and hazards of moveable soccer goals and failed to protect Hayden from those dangers. Prior to Hayden's death, there were 84 other similar incidents where moveable soccer goals injured or killed a soccer player. The complaint seeks Ten Million Dollars (\$10,000,000.00) in compensatory damages.



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## Disclosure Statements

- Meaningless to get participants to sign “I agree not to sue you” form
- Helpful to get them to sign “I have been told of the dangers” form



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## Youtube For Education



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## Mt Isa Rugby Union Club

- Child found lying in a septic tank died as a result of inhaling contaminated fluid.
- Lid covering tank had been removed and was missing. Had already been removed twice prior to the incident.
- Following incident was secured with a padlock.
- Club fined \$50,000.00 no conviction recorded

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## Great Communication



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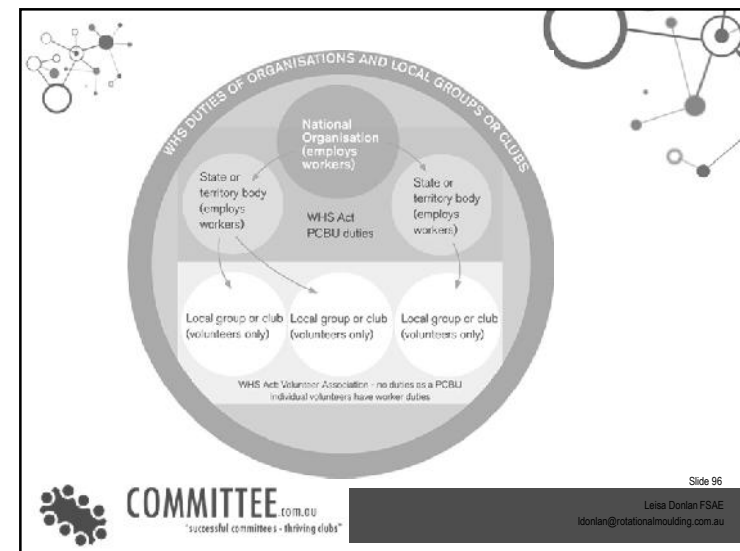


## WH&S Definitions

- **Volunteers:** Under WHS law a volunteer is a person who works for an organisation without payment or financial reward (but they may receive out of pocket expenses). The law also recognises volunteers as workers. This means that your organisation must provide the same protections to its volunteers as it does to its paid workers.
- **Workers:** As a worker, a volunteer has duties under the WHS Act (see Officer Duties). A volunteer may also be an officer of a business or undertaking with due diligence duties under the WHS Act (see Officer Duties).

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Model WHS legislation

Volunteers and the new work health and safety laws

Model Work Health and Safety Act

Model Work Health and Safety Regulations


Model Codes of Practice

National Compliance and Enforcement Policy

WORK HEALTH AND SAFETY LAWS

INFORMATION FOR


INFORMATION FOR



## Other Legislation


- Trade Practices Act
  - Find a way to take sponsorships that works for both of you.
  - Never endorse anything a sponsor sells or makes.
  - Make sure you have a written agreement highlighting exactly what you are agreeing to.
  - Ensure you meet your obligations
  - Consider offering sponsorship of you whole club or major team and working on only one large proposal.
- Delegate Voting
 

Delegates have right to a conscience vote  
Clubs can't insist but can request an agreed response



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## Be Careful Of The Send Button!




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## Civil Liability Act 2003

**39 Protection of volunteers**  
 A volunteer does not incur any personal civil liability in relation to any act or omission done or made by the volunteer in good faith when doing community work—  
 (a) organised by a community organisation; or  
 (b) as an office holder of a community organisation.

**40 Liability not excluded for criminal acts**

**41 Liability of intoxicated volunteer not excluded**  
 (a) was intoxicated when doing the work; and  
 (b) failed to exercise due care and skill when doing the work.

**42 Liability of volunteer not excluded if acting outside scope of activities or contrary to instructions**  
 (a) outside the scope of the activities authorised by the community organisation concerned; or  
 (b) contrary to instructions given by the community organisation.

**43 Liability not excluded if insurance required**  
 This division does not confer protection from personal liability on a volunteer if the liability is a liability that is required under a written law of the State to be insured against. (Eg Public Liability)

**44 Liability not excluded for motor accidents**  
 Relates to CTP insurance claims

Volunteering Queensland have an [excellent pdf to help](#).

Slide 101

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## Get On The Cloud!



Keep records on "back end" of site or use group sites for storage [www.google.groups.com.au](http://www.google.groups.com.au) or windows live for free!

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## Managing Legal Risk

- Risk Management Policies & Procedures
  - Treatments (Eg)
- Insurance
  - Players
  - Volunteers
  - Association
  - Assets
- Technology
  - Cloud services

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## Legal Compliance In Your Club

Stay enthusiastic

- Find out which laws apply to your club
- Appoint someone to be responsible for ensuring the club complies
- Subscribe to some good free newsletters
- Put legal compliance on your meeting agenda
- If it's not working get outside help through funding (club governance).

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