



## Benefits of incorporating associations and clubs

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Throughout Australia, many community groups and sporting clubs operate as incorporated associations. In Queensland, for an association to incorporate, it must have at least seven members, be not-for-profit and be located in Queensland. In this article, we explore the benefits of incorporating as an association in Queensland, under the *Associations Incorporation Act 1999* (Qld) and provide a guide as to how an association goes about incorporating.

### What does incorporation mean?

Incorporation is a means for establishing a legal identity for your association, club, not-for-profit or other organisation. Incorporated organisations have a structure with a governing body, members and a set of rules or constitution by which they are governed.

Seek advice about the right mode of incorporation for you: [1800 659 114](tel:1800659114)

Non-profit bodies have a choice of incorporating via a number of schemes, including as a company limited by guarantee under the *Corporations Act 2001* (Cth) or as an incorporated association under State or Territory law.

There are advantages and disadvantages to each type of incorporated structure, and it's important that organisations seek advice as to the right mode of incorporation for them.

### Why incorporate your association?

Incorporating an association provides a mechanism to establish a separate legal identity which affords many benefits, including:

- entering into contracts or agreements in the name of the association, and not in the name of individual directors;
- assigning or purchasing property and assets in the name of the association; and
- limiting the personal liability of its officers and committee members, provided that their actions are carried out in good faith and with due diligence.

## How to incorporate?

There are a number of steps to incorporation

### Agree to incorporate

The members of the organisation must agree to incorporate via a resolution at a general meeting. The resolution needs to be passed by a three-quarters majority of its members who are present and entitled to vote.

### Choosing a name

There are strict requirements concerning the name of an incorporated association; for example, the name of the incorporated association cannot be easily mistaken for the name of another incorporated association, business name or other registered Australian entity. Similarly, names that may be confused with government agencies and major sporting events may also be prohibited.

### Approved governing constitution

An incorporated association must have a set of rules, also commonly referred to as a constitution, including:

- the objects (or purpose) of the association;
- how the association operates;
- how the management committee operates; and
- how and when meetings will be convened and conducted.

### Electing a management committee

The constitution will provide for the election process, including:

- how members may nominate and be elected to the management committee;
- the terms of office of committee members;
- how vacancies between terms of office (commonly known as casual vacancies) will be filled; and
- circumstances and grounds for the removal of officers.

## Operating infrastructure

Whilst not a legislated step in the process, associations will need to consider matters of an operational nature and determine the effects on its association. For example:

- will the association have employees and, if so, enter into contracts of employment and have employment policies;
- will the association seek tax exemptions; and
- will the association operate for a charitable purpose and seek government grant funding?

## Tips for choosing your constitution

Your constitution governs the way in which your association operates; from how many meetings a year to who you must accept as a member. An association may consider adopting the standard set of rules published by the Office of Fair Trading, known as the 'model rules', as their constitution either in part or full.

We have significant experience in the non-profit sector and are specialists in drafting bespoke rules

Whilst this aids in registering quickly, associations may find themselves unable to operate as desired when opting for a 'one-size-fits-all' constitution. Once the constitution is in place, an association can only amend the rules or adopt the model rules by passing a special resolution at a general meeting or according to the constitution, so it's important that careful attention is paid the first time.

Hall Payne Lawyers has significant experience in the non-profit sector and are specialists in drafting bespoke rules that can be tailored to individually meet the needs and requirements of any association.

## Management committee responsibilities

Incorporation imposes strict obligations on the officers of the management committee.

So, it is important that those officers have a comprehensive understanding of their responsibilities and obligations, to the association and its member, under the *Associations Incorporation Act 1999* (Qld).

## Is incorporation right for your organisation?

Incorporation is an attractive option to many nascent organisations, and for good reason. However, an incorporated association is not the ideal legal structure for all associations and organisations, and certain activities require the adoption of a particular legal structure.

Whether you're looking to incorporate or investigate other options for your group, Hall Payne Lawyers have a wealth of experience advising community and sporting groups and not-for-profit organisations. Contact us to arrange a consultation with one of our team.

## Speak with a lawyer who helps not-for-profit organisations

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

Phone: [1800 659 114](tel:1800659114)

Email: [general@hallpayne.com.au](mailto:general@hallpayne.com.au)

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