



To Incorporate or Not to Incorporate?

Oct 20, 2015

Community groups sometimes wonder whether or not to become incorporated. There are pros and cons of being incorporated and of being unincorporated, so your group needs to make its own assessment of what is right for it.

Some things to consider include:

Benefits of not incorporating: less formal – you don't necessarily have to have a committee, rules or follow any particular processes; there are few legal responsibilities; there is little supervision or regulation; and no particular fees or paperwork are required.

Disadvantages of not incorporating: as the group is not a legal entity, any contracts will be in the name of members – this is potentially risky for those concerned and can cause issues when members change; individuals can be sued if something goes wrong; there may be difficulties opening bank accounts, getting insurance, and getting grants or other funding.

Benefits of incorporating: provides a more formal structure (a committee will be required); the group itself becomes a legal entity which can enter into contracts, sue and be sued; limited liability of individuals if something goes wrong; most foundations or government funding bodies will only deal with incorporated associations.

Disadvantages of incorporating: groups need to establish a committee; they need to comply with the legislation under which they incorporate; they need to put in place a Constitution, or Rules of the Association; there are fees and documentation requirements; ideally they should establish a strategic plan, an annual budget, a risk management plan, policies and procedures, and an operations manual (if appropriate).

Options for incorporation: most community groups in Victoria incorporate under the state-based legislation – the Associations Incorporation Reform Act 2012(39,000 groups in Victoria); some groups choose to incorporate under the Commonwealth Corporations Act 2001 (about 11,000 Australia wide) – these are generally big organisations and operating in more than one state.

Consumer Affairs Victoria has lots of useful information on their website www.consumer.vic.gov.au about incorporating under the Victorian Associations Incorporation Reform Act 2012.