

Appendix D: Legal Responsibilities

Statutes and bylaws

There are statutes that arts organisations should be familiar with, and others that are applicable to particular activities. These are grouped in the following areas:

A. Organisation

All organisations need to be aware of the responsibilities and accountabilities for their form of organisation. For example:

- incorporated societies - Incorporated Societies Act 1908
- trusts - Trustee Act 1956 and/or Charitable Trusts Act 1957
- companies - Companies Act 1993.

B. Criminal

The Crimes Act 1961 defines a range of crimes against public order (trespass etc.), the administration of law and justice, (theft, fraud, bribery, perjury, etc.), against morality and against people (manslaughter, criminal nuisance, injuring by an unlawful act, etc.).

C. Employment, volunteers and contracting

Organisations must be aware of their responsibilities under a variety of Acts relating to employment, volunteers and contracting young persons, including:

- Employment Relations Act 2000.
- Holidays Act 2003.
- Health and Safety in Employment Act 1992.
- Income Tax Act 1994.
- Tax Administration Act 1994.
- Injury Prevention, Rehabilitation and Compensation Act 2001.
- Minors' Contracts Act 1969.

D. Privacy and human rights

You should be aware of your responsibilities under the Privacy Act 1993 and Human Rights Act 1993. These Acts set out the principles to be applied when collecting information about individuals and the treatment of individuals.

E. Events and activities

- Organisations will have different exposures depending upon their activities:
- Fundraising activities will need an awareness of the Gambling Act 2003, Sale of Liquor Act 1989, and local bylaws for selling and producing food items.
- If your organisation is engaged in selling products or services, you need to be familiar with the Goods and Services Tax Act 1985, and the Fair Trading Act 1986.
- Organisations that organise events in public places will need to be aware of the local bylaws that apply.

Common Law

Common law is based in decisions made in court. This law allows organisations and individuals to sue each other for damages (compensation) for wrong-doing. These wrong-doings are normally associated with defamation, nuisance and negligence.

Defamation

Publishing or broadcasting untrue statements about another person which might have an adverse effect on that person's reputation or bring that person into hatred, ridicule or contempt.

Nuisance

Using land in a manner that would unreasonably affect the use of adjacent land by the owner or occupier of that land.

Negligence

Not taking reasonable steps to prevent a foreseeable harm to a person or property in a proximate relationship to you.

For example, if you organise an activity, you know that the activity will affect people who are part of the activity or people who just watch the activity. You need to consider carefully whether any person could be harmed as a result of the activity, about what could happen and how, and how to prevent it.

Assessing what will amount to reasonable steps depends on the circumstances of each activity, but it would encompass things like ensuring that you properly planned an activity, applied a Risk Management process, and effectively communicated the risk to those who might be in harm's way.

Contracts

Contracts are enforceable agreements. Good practice would be that the contract is in writing which makes clear the purpose, roles and responsibilities, terms and any payment. A contract can be for employment, volunteers and contractors, to engage a consultant for managing an event, a funding or sponsorship agreement, a lease etc.

DISCLAIMER: This information is a guide only and may not be accurate for all situations. It should not be used as a substitute for legal or other expert advice.