

Legal information for NSW service providers



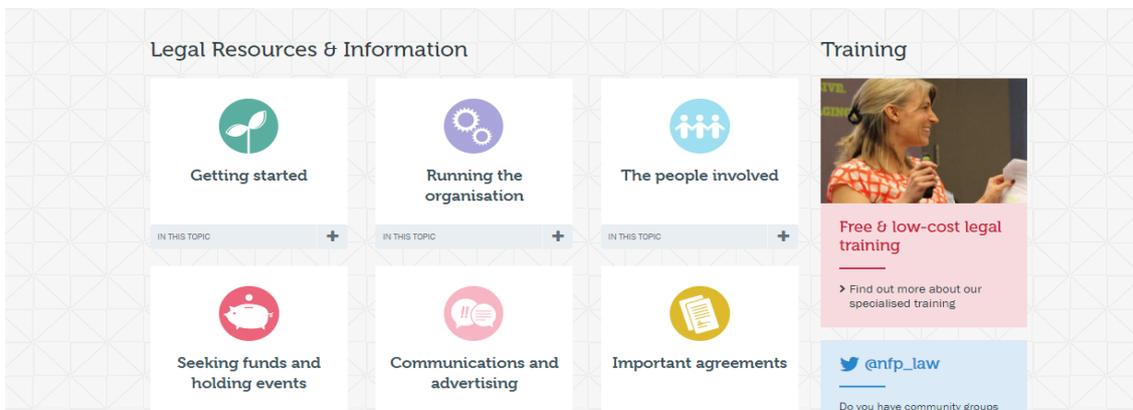
This document covers:

- ▶ the free legal information available for service providers in New South Wales, and
- ▶ how service providers can access legal help from Not-for-profit Law.

Justice Connect is a charity that runs Not-for-profit Law, a service providing free and low cost legal resources, training and advice to community organisations.



We are a charity, providing free & low cost legal resources, training and advice to community organisations. > Learn more about us



NFP's Law's website, www.nfplaw.org.au, contains resources that deal with legal issues identified as areas that NGO service providers would find beneficial:

1. Effective governance
2. Negotiating contracts
3. Legal structuring and working with other organisations
4. Employment law
5. Property law (leasing a property in NSW)
6. Privacy law

CAUTION

When using the Not-for-profit Law website, ensure you select 'NSW' as your location to ensure you are viewing resources relevant to not-for-profits in New South Wales.



1. Effective governance

NOTE

Governance of a not-for-profit organisation is undertaken by a board or committee of management. Good governance means complying with the law and legal duties, and carrying out the governance role in the best interests of the not-for-profit. There are considerations beyond strict legal duties when thinking about good governance, such as how meetings are held, who is on your board and what skills they have, how new board members are inducted, how frequently the board meets, and how board papers are prepared and distributed. Not-for-profit Law has fact sheets and guides on effective governance and links to useful online tools and resources at www.nfplaw.org.au/governance.



Guide: [Duties Guide](#)

- The Duties Guide covers the key legal duties of the people who hold a position on the board of a not-for-profit community organisation.

Fact sheet: [Introduction to the board member role for new board members](#)

- This fact sheet is designed to help new board members to understand their role so they can contribute effectively to the successful running of their organisation from day one. This fact sheet covers:
 - the role of a board member
 - legal obligations of board members
 - personal liability of board members, and
 - what board members should know about their organisation.

Fact sheet: [Inducting new board members](#)

- This fact sheet provides general information about the process for inducting people to the board of a community organisation. It covers what should happen before an appointment is made to the board, why a board induction is important, who is responsible and what should be covered in a board induction.

Fact sheet: [Payment of board members](#)

- This fact sheet covers the issues to consider prior to paying board members and the steps to follow if a decision is made to pay board members.

Fact sheet: [Insolvency and your organisation](#)

- This fact sheet contains information for not-for-profit organisations that are facing financial difficulties or are concerned about becoming insolvent.

2. Negotiating contracts

Fact sheet: [Understanding contracts](#)

- This fact sheet covers:

- general principles of contract law
- reviewing a contract and approval processes for contracts, and
- specific types of contracts.

Resources: [Sub-contracts for NSW organisations](#)

- Information on sub-contracts, including a checklist of issues to include in a sub-contracting agreement, can be found at www.nfplaw.org.au/sub-contracts.

3. Legal structures and working with other organisations

TIP

Legal information on the main legal structures for NSW not-for-profits can be found at www.nfplaw.org.au/legalstructure.



Fact sheet: [Changing structure](#)

- For NSW incorporated associations considering a change of structure, this fact sheet contains information about:
 - why an incorporated association would want to change structure
 - how a transfer of structure can be achieved, what a transfer does, and how membership changes when transferring structures, and
 - what documents must be lodged and other requirements.

Guide & Checklist: [Working with other organisations](#)

- This guide sets out:
 - different arrangements that organisations can use to work together, from informal MOUs through to full mergers
 - the due diligence process, and
 - legal issues that can arise when working with other organisations such as governance, tax and charity status, real property and intellectual property, people and safety and privacy.

NOTE

There are many ways that organisations can work together, with different levels of formality, different costs involved, and different risks raised. Not-for-profit Law's resources cover the different arrangements available, however groups may need legal advice in order to determine what is best for their particular working arrangement.



Guide & Checklist: [Auspicing](#)

- The Auspicing Guide provides a detailed overview of auspicing arrangements, important issues for parties involved to consider, and guidance on reaching agreement on the terms of an auspicing agreement.

Fact sheet: [Memoranda of Understanding \(MOU\)](#)

- This fact sheet explains what an MOU is, when an MOU should be used and whether an MOU is a legally binding document.

Resources: [Joint Ventures & Partnerships](#)

- Information on joint ventures and partnerships, including a fact sheet about joint ventures, can be found at www.nfplaw.org.au/partnerships.

4. Employment law

NOTE

Not-for-profit community organisations have the same legal obligations as any employer to their workers. Not-for-profit Law's information on employment law is designed to assist organisations to understand the legal framework and identify issues when they arise. The law surrounding employment is complex, so the information in these pages should not replace advice from a lawyer who specialises in employment law. If your organisation suspects that it has an employment issue, it is best to seek specialist advice as soon as possible.



Guide: [Employee, contractor or volunteer?](#)

- This guide contains:
 - definitions of employees, independent contractors and volunteers, and
 - information about the legal obligations owed by community organisations to employees, independent contractors and volunteers.

Resources: [Recruitment and engagement of employees](#)

- Information about legal obligations in relation to recruiting employees, discrimination in recruitment and screening checks is available at www.nfplaw.org.au/recruitment.

TIP

Certain background checks are required by law (under legislation or contract) and others are discretionary. Not-for-profit Law has produced a comprehensive guide on [Screening Checks](#) which includes information on Working with Children Checks, Police Checks, interstate and overseas screening, and other types of screening checks.



Fact sheet: [Entitlements owed to employees](#)

- This fact sheet contains information regarding Fair Work Information Statements, National Employment Standards and management of employees.

Resources: [The Fair Work System overview](#)

- Not-for-profit Law has fact sheets about employee entitlements and protections, modern awards and enterprise agreements and unions in the workplace, available at www.nfplaw.org.au/fairworksystem.

Resources: [Termination and resignation](#)

- Fact sheets on termination of employment and the resignation of an employee are available at: www.nfplaw.org.au/terminationandresignation.

Resources: [Disputes with employees](#)

- Not-for-profit Law has a fact sheet about legal rights and obligations if a dispute with an employee arises, available at www.nfplaw.org.au/employeeedisputes.

5. Privacy law

Guide: [Privacy Guide - A guide to compliance with privacy laws in Australia](#)

- This guide contains information about:
 - what is covered by privacy law, sources of privacy laws and exemptions
 - obligations under privacy law including consent, notification and storing personal information and compliance, and
 - privacy policies.

6. Leasing a property in NSW

Fact sheet: [Leasing property](#)

- This fact sheet outlines key issues to consider when entering into a lease for a property in NSW, including:
 - identifying the type of lease your organisation is being asked to sign
 - tips for negotiating a lease
 - rights and obligations under a lease, and
 - what to do when things go wrong with a lease or leased premises.

7. Further legal help

Not-for-profit Law can help funded services in a number of ways.

Not-for-profit Law can:

- provide legal information
- provide telephone advice (from our in-house lawyers on a call-back basis)

- make a referral for pro bono assistance from one of our member law firms (for more complex legal matters), or
- refer you to another body who may more appropriately help you, including other legal services.

Enquiries can be made using the online form at www.nfplaw.org.au/legalenquiry.

Not-for-profit Law's legal advice services have eligibility criteria, available at www.nfplaw.org.au/are-you-eligible-for-legal-assistance.

A Not-for-profit Law Information Hub resource. Access more resources at www.nfplaw.org.au

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