

Events involving travel

Legal information for NSW community organisations

This fact sheet covers:

- key legal issues to consider when events or activities involve travel
- risk management strategies for travel
- insurance for events involving travel, and
- whether employees and volunteers should use their own cars.

This fact sheet outlines some of the key legal issues that may arise for community organisations when organising events and activities that involve travel.

The information covers the legal liability issues which may arise when transporting people (such as clients) to activities, as well as when your employees, volunteers or members undertake travel while working or volunteering for your organisation.

Key legal issues when events or activities involve travel

If your community organisation organises an event or activity involving travel, it may owe a duty of care to the people involved and therefore needs to take steps to ensure the safety of those involved, and in particular, to protect against foreseeable risks.

For example, if your organisation owns vehicles that it uses for its activities and someone is injured because a vehicle was not properly maintained or repaired, then your organisation could be sued by the person who is hurt because the vehicle was unsafe.

The nature and extent of any precautions your organisation should take in relation to vehicles and travel will depend on the risks involved. Generally, an organisation in NSW is not responsible for injury resulting from any well-known and understood inherent risk in an activity. Work, health and safety (WHS) laws, which set out the responsibilities of employers and workers to ensure that safety is maintained at work, will apply to travel activities where an employee or volunteer is involved.

Risk management strategies that your organisation can take are discussed below.

RELATED RESOURCES

For more information about WHS laws in NSW, see Not-for-profit Law's guide on Community organisations and work health and safety law on the Information Hub at www.nfplaw.org.au/OHS.

What kind of risk management can we undertake to prevent travel incidents?

The best way for your organisation to protect itself from being liable for injuries associated with travel, is by adopting measures that minimise the risks involved.

Risk identification and management process

There are many resources available to assist you in developing a risk management process. For example, as listed in the Resources section below, the NSW Department of Education and Training's [Excursions Policy Implementation Procedures](#) describes the risk management process for excursions involving children (see specifically parts 4, 7 & 9). Although this document is in the context of school excursions, it might be a useful basis for other community organisation events involving travel.

Registration, maintenance, insurance and licences

Your organisation should have a system for ensuring that all vehicles used for its activities or events (whether owned by the organisation or its staff or volunteers) are registered, well maintained, have comprehensive insurance policies, and that the people who are driving the vehicles (such as committee members, members, volunteers or employees) are appropriately licensed and experienced.

Policies

It is important for your organisation to have clear written policies to provide guidance to your employees and volunteers around travel. These policies could include:

- a policy about whether employees and volunteers can use their own cars
- a requirement that no car be used for your organisation's activities unless it has comprehensive insurance
- time limits around the amount of driving that can be undertaken in a given period (to prevent fatigue), and
- a summary of legal requirements and standards expected when driving (no consuming alcohol, wearing seat belts, obeying speed limits, etc).

Authorities

It should be noted that whether your organisation will be liable for an accident may depend on whether the employee or volunteer was acting within the scope of the authority granted by your organisation and performing his or her duties when driving. It is, therefore, important to make it clear whether your organisation has authorised an employee or volunteer to undertake travel.

For example, if your organisation has volunteers who are out delivering goods to elderly clients in their homes, you might want to make it a written condition of their work that they are authorised to visit and deliver goods to the client but not to drive the client at any stage. If your volunteers do drive clients around, and have an accident, your organisation may argue that they were acting outside the scope of their authority, and therefore your organisation is not liable for the damage caused.

Medical information form

Depending on the type of event, it may be important for your community organisation to obtain a completed medical information form from all participants (for example, before a camp or day trip). Medical information forms can assist medical personnel when treating the injured in an emergency. The form should include:

- emergency contact numbers
- a list of medication the individual is currently taking and instructions (if necessary) on how to administer that medication
- a list of any allergies to medication
- any other relevant information, such as whether a participant has a medical condition, and
- a request for consent to release the medical information to appropriate medical personnel in the case of a medical emergency.

What kind of insurance do we need for events involving travel?

If your organisation is planning events or activities involving travel, it is a good idea to have appropriate insurance cover.

Public liability insurance

Public liability insurance is useful if your event will involve members of the public however, generally public liability insurance policies do not cover liability arising from motor vehicle, aircraft or watercraft accidents.

Motor vehicle insurance

A community organisation which uses its own motor vehicle (one that is registered in its name) should ensure that the vehicle is registered and has comprehensive motor vehicle insurance. The insurance covers the costs of injuries to other people.

If a volunteer or employee plans to use his or her own vehicle for travel, the organisation should verify that the volunteer or employee has comprehensive car insurance. See **'Should we let our volunteers or employees use their own cars?'** below. Your community organisation may also need to look into arranging a specific insurance policy covering property damage to the volunteer's or employee's motor vehicle when it is used for the organisation's activities.

If an organisation uses a vehicle from an external provider (for example, a bus charter company) then it should ensure that the external provider has public liability insurance cover of at least \$10 million. The external provider should also hold comprehensive motor vehicle insurance.

Travel insurance

If the event your community organisation is planning involves travel overseas, your organisation might consider purchasing group travel insurance for the participants. Travel insurance generally covers

RELATED RESOURCES

The Not-for-profit Law Risk and Insurance Guide on the Information Hub at www.nfplaw.org.au/insurance provides detailed information on risk management strategies and different insurance products.

medical costs incurred overseas. At a minimum, your organisation should advise participants of the benefits of purchasing travel insurance in their own right.

Should we let our volunteers or employees use their own cars?

Sometimes, where a community organisation has limited resources, volunteers or employees will use their own vehicle to transport participants as part of an event or activities. It is a good idea for your organisation to verify that the relevant volunteer or employee holds a valid driver licence and has comprehensive car insurance before allowing them to drive. Copies of these documents should be kept on file.

This is because, if an accident occurs due to the employee's or volunteer's negligence, your organisation may be held liable in place of the employee or volunteer. If the employee or volunteer only has third party insurance, your organisation may be liable for all other damage (to other cars / buildings).

We are going to hire a bus – are there laws that regulate the use of buses?

Generally, if the relevant vehicle has no more than 12 seats, including the driver, then all that is required to drive the bus is a current driver licence.

However, if the relevant vehicle has more than 12 seats including the driver, then the driver will require a 'Light Rigid,' 'Medium Rigid' or 'Heavy Rigid' licence depending on the characteristics of the vehicle. Roads & Maritime Services (formerly the RTA) has more information on these licences and a link to the relevant section of their website has been included in the Resources section below.

Our event involves transporting children – what legal issues may arise?

There are further rules your community organisation must comply with when children are involved in any event you organise.

Working with Children Checks

In NSW, the [Child Protection \(Working With Children\) Act 2012](#) (NSW) makes it mandatory for people who are engaged in child-related work (in either paid or volunteer positions) to obtain a Working With Children Check (**WWC Check**).

TIP

As a general rule, everyone who has face-to-face contact with children and works in a child-related sector, needs a WWC Check. For more information go to Not-for-profit Law's Screening Checks Guide on the Information Hub at www.nfplaw.org.au/recruitment.



When organising an event involving travel which includes children, your organisation should ensure that all employees and volunteers that are required to obtain a WWC check, do so.

Parent or guardian's informed consent

If your travel events involve children under the age of 18, it is important for a community organisation to seek parent or guardian consent in writing and obtain relevant medical information.

Although the form will not fully relieve a community organisation from its duty of care towards the child while the child is participating in the travel event, the form may serve as a useful document to inform the parents of children of the nature and unavoidable risks of the event. It provides evidence of an acknowledgement by the parent of those risks and, may contain an agreement about who will bear responsibility for the costs if an injury occurs.

Resources

Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub at www.nfplaw.org.au contains information on the following topics:

✔ Insurance and Risk – www.nfplaw.org.au/riskinsurance

This page contains resources on background checks, occupational health and safety, negligence and incidents and accidents.

✔ Fundraising and Events – www.nfplaw.org.au/fundraisingandevents

This page contains resources on the main legal issues when fundraising

✔ Communications and Advertising – www.nfplaw.org.au/comms

This section offers information on advertising and promotions and social media, such as Facebook and twitter.

✔ Recruitment – www.nfplaw.org.au/recruitment

This page features resources on background screening of potential employees and discrimination in recruiting employees and volunteers.

Related Resources

✔ [SW Department of Education and Training – Excursions Policy Implementation Procedures](#)

This is a link to the NSW Department of Education and Training Excursions Policy Implementation Procedures. Although aimed at school requirements the Policy may be useful for community organisations that are organising excursions.

✔ [NSW Office of the Children's Guardian – Working with Children Check](#)

This NSW government website provides information about the WWC check requirements including who must apply for a WWC check, how to apply and your organisation's obligations under the Victorian legislation.

✔ [Our Community - Insurance](#)

Our Community's website provides a range of resources about risk management and insurance, including useful risk management checklists.

✔ [Roads & Maritime Services - Buses](#)

This is a link to the Roads & Maritime Services (formerly RTA) licensing page, with information about requirements for driving vehicles (e.g. buses) seating over 12 people.

✔ [WorkCover NSW](#)

WorkCover NSW is the government agency with responsibility for occupational health and safety in NSW. They have a range of publications that may assist with risk management when undertaking travel (for example on issues such as long distance driver fatigue etc.)

Legislation

▀ [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#)

This is a link to the NSW legislation which sets out the requirements for people who need a Working with Children Check to be able to work with children in NSW.

▀ [Work Health and Safety Act 2011 \(NSW\)](#)

This is a link to the legislation which sets out the laws relating to workplace health and safety in NSW (which apply to work-related travel).

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

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