

Events involving travel

Legal information for Victorian community organisations

This fact sheet covers:

- legal issues for your community organisation to consider when events or service-provision involves travel
 - risk management strategies for travel
 - insurance for events involving travel, and
 - whether employees and volunteers should use their own cars.
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This fact sheet outlines some of the key legal issues that may arise for community organisations when organising events and activities which 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 involving travel and something goes wrong (for example, there is an accident) your organisation can be held liable (legally responsible) for loss or damage incurred or suffered by a volunteer or employee, a member of your organisation or a member of the public.

This legal responsibility could arise because your organisation owes people participating in the event (and travel) a duty of care. If your organisation does not provide the required standard of care (for example, does not take necessary and sensible precautions to prevent accidents) the organisation could be sued by a person who is hurt (the injured party) for negligence and found liable to pay compensation.

Alternatively, if the injured party is an employee or volunteer (or even a member of the public), your organisation's legal liability could arise under occupational health and safety (OHS) legislation. For more information about your organisation's OHS requirements, see our page on OHS at www.nfplaw.org.au/OHS.

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

The best way that your organisation can protect itself from being liable for injuries associated with events involving 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, the Department of Education and Training's Safety Guidelines for Education Outdoors describes the risk management process that might be adopted in the context of school excursions. This might be a useful basis for other community organisation events involving travel. A link to this tool has been included in the Resources section below.

Registration, maintenance, insurance and licences

Your organisation should have a system for ensuring that all vehicles used at its activities or events are registered, well maintained and have comprehensive insurance policies. Your organisation should also ensure that the people who are driving the vehicles (committee members, members, volunteers, 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 requirement as to whether the organisation's cars must be used (if any)
- 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 minimise risks associated with fatigue), and
- reinforcement of the legal requirements and standards around driving (no consuming alcohol, wearing seat belts, obeying speed limits).

Your organisation might have other policies which relate to travel but not liability for incidents that happen, for example payment of expenses.

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 an injured person in the event of an emergency. The form should include a request for consent to release the medical information to appropriate medical personnel in the event of an emergency.

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

If your organisation is planning events involving travel, it is a good idea to ensure that you have the appropriate insurance cover. Generally, public liability insurance policies do not cover liability arising from motor vehicle, aircraft or watercraft accidents. Some brief notes on some of the insurance policies needed to cover travel are included below, but for more information about insurance, see our Insurance page at www.nfplaw.org.au/insurance.

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, at all times, registered and has comprehensive motor vehicle insurance.

If a volunteer or employee plans to use his or her own vehicle for travel, your organisation should verify that the volunteer or employee has comprehensive car insurance by sighting a copy of their current policy. 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 incurred when the vehicle 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 medical costs incurred overseas. At a minimum, your organisation should advise participants of the benefits of purchasing travel insurance in their own right.

What may our organisation be liable for, if an accident occurs?

If your organisation has arranged vehicles to transport people for an event or activity and that vehicle is involved in an accident, your organisation may be liable for any loss or damage caused. It is for this reason that steps such as ensuring comprehensive insurance and qualified drivers (see above) are so important.

Liability for death or personal injury

Should death or personal injury occur due to a motor vehicle accident involving a vehicle owned by your community organisation and used during an event involving travel, compulsory third party insurance attaching to that vehicle will apply. This insurance covers the costs of medical expenses and

other costs relating to injuries to people and therefore will financially protect your community organisation to some extent in a civil action. To ensure the vehicles used by your organisation are covered by compulsory third party insurance, it is necessary that each of these vehicles has a valid registration.

Liability for other damage

Compulsory third party motor vehicle insurance only covers liability for personal injuries and will not cover all of your organisation's liability. Your organisation will still be liable for other damages (that is, damages not related to compensation for death or injury). This includes, for example, damage to another car or building. As a precautionary measure, your community organisation should ensure that each vehicle has comprehensive motor vehicle insurance to cover these losses. For further information about insurance see below and our Insurance page at www.nfplaw.org.au/insurance.

It should be noted that whether your organisation will be liable for the accident may depend on whether the employee or volunteer was acting within the scope of their authority and duties when driving. It is, therefore, important to clearly document whether your organisation has authorised an employee or volunteer to undertake travel and if so, for what purpose.

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 with the client at any stage. If your organisation does this and a volunteer then drives a client around, your organisation may argue that this volunteer was acting outside the scope of their authority and therefore, your organisation is not liable for any accident that may occur.

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

Sometimes when a community organisation has limited resources, volunteers or employees will use their own vehicle to transport participants for an event or activity. If this is necessary, it is a good idea for your organisation to make sure that the relevant volunteer or employee holds a valid driver's licence and has comprehensive car insurance before allowing them to drive.

This is because if an accident occurs due to the negligence of the employee or volunteer, your organisation may be held liable in place of the volunteer or employee. For example, 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 is a current driver's licence.

However, if the relevant vehicle is a "commercial bus" (more than 12 seats including the driver), then more onerous obligations are placed on the driver. An application needs to be made to the Taxi

Services Commission for driver accreditation and a link to the relevant section of the website has been included in the Resources section below.

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

As children are particularly vulnerable members of our society, there are a number of safety policies and rules that community organisations must comply with when working with children, including events that involve travel where children are participants.

Working with Children Check

In Victoria, the *Working With Children Act 2005* (Vic) requires certain people who work with children (in either paid or volunteer positions) to obtain a Working With Children Check. (**WWC Check**)

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 by the required deadline. For a link to the Department of Justice and Regulation's website on WWC checks see the Resources section below.

Your community organisation should not engage an external provider in "child-related work" if that external provider is required to apply for a WWC Check and has not done so by the due date. Most importantly, your community organisation should ensure that all employees or volunteers who have not obtained a WWC Check do not undertake "child-related work". "Child-related work" is defined as work that usually involves direct contact with children and does not mean work that involves only occasional direct contact with children that is incidental to the work.

Parent or guardian's informed consent

When an event involving travel includes children under the age of 18, it is good practice for a community organisation to seek parent or guardian consent and obtain relevant medical information. This can be done by requiring completion of a form, which may also point out any risks involved in the activity.

Note that a parent or guardian consent (or waiver) form will not relieve your organisation from its duty of care towards the child while the child is participating in an activity or travel. Your organisation could still be held liable (legally responsible) if it is negligent.

However, the form may serve as a useful document to inform the parents or guardians of children participating in an activity of the nature and risks of the activities that their children will be undertaking. Such documentation also provides evidence of an acknowledgement by the parent or guardian of those risks and may provide that the parent or guardian consents to their child undertaking activities knowing of the risks.

Resources

Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub contains many fact sheets on different topics. It can be accessed at www.nfplaw.org.au. The following topics contain relevant further information:

✔ [Running the organisation](#)

This page contains resources to assist those running not-for-profit organisations to understand and comply with legal requirements.

✔ [Fundraising and Events](#)

This page contains resources on the main legal issues when fundraising in Victoria.

✔ [Communications and Advertising](#)

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

✔ [Risk and insurance](#)

Related Resources

✔ [Victorian Department of Education and Training - Safety Guidelines for Outdoor Education](#)

This is a link to the Victorian Department of Education Safety Guidelines for Outdoor Education. Although aimed at school requirements the Guidelines may be useful for community organisations that are organising excursions.

✔ [Our Community - Insurance](#)

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

✔ [Buses](#)

This is a link to information about requirements for driving of vehicles (eg. buses) seating over 12 people.

✔ [Victorian Department of Justice and Regulation - Working with Children Check](#)

This DOJ 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.

✔ [WorkSafe Victoria](#)

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

Legislation

➤ [Occupational Health and Safety Act 2004 \(Vic\)](#)

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

➤ [Working with Children Act 2005 \(Vic\)](#)

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

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

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