

# Setting up your organisation

Legal information for community organisations

## This fact sheet covers:

---

- ▶ incorporating
  - ▶ applying for an Australian Business Number (ABN), and
  - ▶ registering a business name.
- 

**There are a number of stages involved in formally establishing your not-for-profit organisation. These steps can seem overwhelming. However when broken down, each stage is perhaps not as onerous as first imagined.**

Before setting up a not-for-profit organisation, your group needs to:

- agree that the group will operate on a not-for-profit basis
- decide whether or not the group should incorporate (see the Information Hub page on the Incorporation Decision at [www.nfplaw.org.au/incorporationdecision](http://www.nfplaw.org.au/incorporationdecision)), and
- if the group is going to incorporate, decide which incorporated legal structure would best suit the group's aims and activities (see the Information Hub page on Choosing the Right Legal Structure at [www.nfplaw.org.au/legalstructure](http://www.nfplaw.org.au/legalstructure)).

Choosing an appropriate structure is important, as using a legal structure that is not right for the aims and activities of your organisation can cause your group to run into legal difficulties when it tries to carry out its activities. Changing structure can be costly and time consuming for your group.

This fact sheet sets out details for the next steps once a decision about incorporation has been made.

## 1. Incorporating

---

Once your organisation has decided which incorporated structure it wishes to use, the next step is to set up your organisation following processes required by legislation (that is Acts of Parliament and Regulations).

The incorporation process is different for each type of legal structure. For information on the incorporation process for the main types of not-for-profit legal structures, see our Information Hub page dedicated to Setting up at [www.nfplaw.org.au/settingup](http://www.nfplaw.org.au/settingup).

## 2. Applying for an Australian Business Number

---

An Australian Business Number (**ABN**) is a unique number which identifies your organisation to the Australian Taxation Office (**ATO**) and other government departments and agencies.

It is not compulsory for a not-for-profit organisation to have an ABN unless it has a goods and services tax (**GST**) turnover of \$150,000 or more (in which case it is required to register for GST, and must have an ABN to do this). However, even if your organisation is not required to register for GST, it can be helpful to have an ABN.

Organisations commonly choose to register for an ABN so they can:

- apply for endorsement as a deductible gift recipient (**DGR**), or an income tax exempt charity, or both
- claim GST credits (by voluntarily registering for GST)
- interact with government departments, agencies and authorities (for example, the ATO in relation to fringe benefits tax), and
- deal with businesses more easily (especially for ordering and invoicing purposes).

More information on ABNs, including who is entitled to apply, is set out in the Australian Business Register's [website](#).

Applications for an ABN can be made online via the Australian Business Register or by paper form available from the ATO, or through a tax agent.

#### TIP

You can check whether an organisation has an ABN (and if so, its business details and any tax concessions) by searching the Australian Business Register at <http://abr.business.gov.au/>.



## 3. Registering a business name

Generally, a business name needs to be registered with the Australian Securities and Investments Commission (**ASIC**) if you intend to carry on a 'business' in Australia using a name that is not your organisation's name. A national [business names register](#) is maintained by ASIC.

If your group is incorporated, you do not need to register a separate business name to conduct activities under your organisation's registered name. However, if you still wish to apply for a separate business name, you will need to be 'carrying on a business' within the meaning of the *Business Names Registration Act 2011* (Cth). A 'business' is an activity, or series of activities, done:

- in the form of a profession, a trade, employment, a vocation or a calling,
- in the form of an adventure or concern in the nature of trade, or
- on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property.

Also, if your organisation wishes to apply for a business name, you will need an ABN (see section 2 above).

For more information on eligibility for registering a business name and details on the business names register, visit the [ASIC business names information portal](#).

It is important to note that registering a business name does not give you ownership over that name and does not automatically prevent others trading using that name. It does, however, prevent someone else from registering that name. If you wish to use the business name exclusively, you should conduct the appropriate intellectual property searches to make sure it is available. If it is available, you should consider taking steps to protect intellectual property rights in the name. For more information on protecting your intellectual property go to the Information Hub page on Intellectual Property at [www.nfplaw.org.au/ip](http://www.nfplaw.org.au/ip).

# Resources

---

## Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub ([www.nfplaw.org.au](http://www.nfplaw.org.au)) has further resources on the following topics:

### ▶ [Getting started](#)

This page sets out the things you will need to consider when deciding on whether to establish a not-for-profit organisation, including links to helpful resources.

### ▶ [Before you start](#)

This page includes specific matters to address prior to setting up a not-for-profit organisation.

### ▶ [The incorporation decision](#)

This page gives guidance to those not-for-profits deciding whether to either formally incorporate, or remain as an unincorporated group.

### ▶ [Choosing a legal structure](#)

This page lists the various types of not-for-profit legal structures, allowing you to determine the best structure for your group.

## Australian Business Register

### ▶ [Applying for an Australian Business Number \(ABN\)](#)

This page on the Australian Business Register website provides guidance on who can apply for an ABN, and the process for applying.

## Australian Securities and Investments Commission

### ▶ [Business names information portal](#)

This page on the ASIC website links to a range of resources regarding the registration of business names.

A Not-for-profit Law Information Hub resource. Access more resources at [www.nfplaw.org.au](http://www.nfplaw.org.au).

© 2016 Justice Connect. You may download, display, print and reproduce this material for your personal use, or non-commercial use within your not-for-profit organisation, so long as you attribute Justice Connect as author and retain this and other copyright notices. You may not modify this resource. Apart from any use permitted under the *Copyright Act 1968* (Cth), all other rights are reserved.

To request permission from Justice Connect to use this material, contact Justice Connect at PO Box 16013, Collins Street West, Melbourne 8007, or email [nfplaw@justiceconnect.org.au](mailto:nfplaw@justiceconnect.org.au).