



# RISK MANAGEMENT AND INSURANCE

## A Guide for Recreation and Sporting Organisations

SEPTEMBER 2004

*Many recreation and sport clubs, associations and businesses are experiencing problems in gaining suitable insurance, or are being faced with increased premiums for suitable insurance.*

The Office for Recreation and Sport is not able to provide direct advice on insurance products, but has produced this information sheet as a guide to assist recreation and sport organisations in addressing these issues.

### **Incorporation:**

If you are a member of a club or association or considering establishing one, the first issue you should address is whether the club is already incorporated and if not, whether it should become incorporated.

Incorporation is a voluntary, simple and inexpensive means of establishing a legal entity. It is an alternative to forming, for example, a company limited by guarantee or a co-operative, and is particularly suitable for small, community-based groups. Except as may be provided in the rules of the association, incorporation provides a limited liability for members.

In considering whether or not to incorporate, you may wish to obtain legal advice. A solicitor will be able to provide you with advice on preparing rules and completing the forms. What to do?

- Obtain a copy of the Associations Incorporation Act 1985 and Regulations plus an example set of rules and the necessary form for completion.
- At a meeting of members, authorise a person to make the application for incorporation and appoint a public officer.
- Lodge the completed and signed forms along with a copy of your set of rules and checklist of rules at the Office of Consumer and Business Affairs.


Check the Office of Consumer and Business Affairs website for more information. This website can be found at [www.ocba.sa.gov.au](http://www.ocba.sa.gov.au).

### **Running a Business:**

Running a business providing recreation and sport services is a bit different to running a 'not for profit' incorporated organisation. However there are still benefits in having the correct structure in terms of limiting your liability.

For example, setting up a proprietary company may have benefits in that the liability of shareholders is limited because the company is seen as separate from the people involved. The personal assets of shareholders are not threatened by company losses or debts except where shareholders are guarantors for the performance of the company.

To find out more about the types of structure for a business, you can obtain information sheets from the Centre for Innovation, Business and Manufacturing, BizFact series. These can be downloaded from [www.cibm.sa.gov.au/bizfact](http://www.cibm.sa.gov.au/bizfact). You may also wish to obtain legal advice on the structure of your business.



### **Risk Management:**

Insurance is not something that can be addressed in isolation. Insurance is a tool that organisations can use as part of an overall risk management strategy to avoid accidents and injuries, minimise risk and deal with the consequences of incidents.

The Office for Recreation and Sport advocates therefore that any recreation and sport organisation needs to consider insurance issues only within a broader risk management framework.

To assist organisations in understanding what risk management is and how to apply it, the Office for Recreation and Sport produced a **Risk Management Resource** for recreation and sport organisations released in January 2003. This resource is currently being updated to reflect the changes in legislation in South Australia over the last few years and to incorporate other available risk management resources.

The resource will be released mid year as an electronic document that will be available to download from this website, register your interest at [participation@saugov.sa.gov.au](mailto:participation@saugov.sa.gov.au)

### **Risk Management Training:**

***The Risk Management Resource is being supported by the delivery of training in risk management for not for profit organisations. The training will cover:***

- What is risk management and how to identify, assess and treat risks.
- How to develop and review a risk management plan.
- A brief overview and update of the legislative reform relating to public liability insurance.
- Details regarding accredited risk management training available to the sport and recreation industry.
- Information regarding insurance schemes available to the sport and recreation industry.

*The cost to attend is \$10 per organisation with a limit of two people per organisation for each workshop. The workshop duration is approximately 2.5 hours and the training, while not accredited, is mapped against the core competencies from Undertake Risk Analysis of Activities - a Certificate III in Sport and Recreation level module.*

*Following the workshop, all persons attending will be forwarded a Certificate of Attendance and each organisation will receive one free copy of the ORS Risk Management Resource (if it does not already have one).*


### **To register and for further information on risk management training, contact:**

Joanne Pratt  
Local Government Risk Services,  
Telephone: (08) 8235 6411  
Email: [pratj@jlta.com.au](mailto:pratj@jlta.com.au)

### **Insurance:**

Insurance is one option for organisations seeking to manage risk and liability. In today's climate, it is important to first identify what sort of insurance you require. This is normally done via the risk management plan. Many organisations may find that they are carrying and paying for categories of insurance far beyond that which they really require, while others may find that they are under-insured relative to the types of risk they face.

The Office for Recreation and Sport is not an insurance broker. It does not recommend specific products or directly provide insurance, nor does the State Government. However we are aware of some opportunities and recommend that you investigate these.

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- Affiliation with your State or national body

Many State/national sporting bodies are involved in what are termed 'Group Insurance' schemes. These involve the State/national body negotiating an insurance package on behalf of all of their members and then each affiliated club is able to purchase insurance through the scheme.

Operating as a group enables the risks and costs to be shared and often leads to much lower premiums than if your club acted on its own. In some cases the cost saving may partially or wholly offset the cost of affiliating with the State/national body!

To find out more, contact the State Association for your sport or activity.

- Using a facility owned or leased from Local Government

Where your club uses a facility located on land you either lease or licence from a council, that club may be able to obtain insurance through the Local Government insurance broker, Local Government Risk Services. To discuss this you will need to contact Local Government Risk Services to see if your situation meets their criteria.

Alternatively, Local Government Risk Services conduct the risk management training sessions mentioned earlier in this document; by attending one of these sessions you can discuss this option directly with them.

To find out more, contact Local Government Risk Services 08 8235 6410.

- Community Care Insurance

Allianz Australia, NRMA Insurance and QBE have formed a joint venture called Community Care Underwriting Agency (CCUA). The CCUA was formed in response to the need for public liability insurance for not for profit organisations.

The primary purpose of the CCUA is to help not for profit organisations operating in NSW, ACT, Western Australia, South Australia, Northern Territory and Tasmania get access to public liability insurance for activities including community events, community centres and home care.

The product is designed for organisations that have the following characteristics:

- Provides services to the broader community,
- A not for profit organisation that has turnover/funding of no more than \$2 million per annum,
- Does not distribute profits to its members, and
- Comprises mainly of volunteers.

At present it is not intended that the CCUA would encompass larger organisations with the capability to purchase insurance. This may or may not happen in the future. CCUA has now commenced operating (as at 16/12/2002) and whilst this product is only available for eligible organisations predominantly based in NSW, ACT, Western Australia, South Australia, Northern Territory and Tasmania, work with other States is currently being undertaken to extend the product nationally.


CCUA can be contacted by phone on 1800 023 456 to register your interest, or 02 8227 8230 for other enquiries.

- Sport SA

The South Australian Sports Federation (Sport SA) has arrangements with insurance brokers IEA to assist their members to obtain insurance for sport.

This is a service that Sport SA provides to its members. Sport SA has a range of membership options including categories for State and regional associations, for clubs and for individuals.

To find out more, contact the Membership Officer at Sport SA on 08 8353 7755 or email Sport SA at [admin@sportsa.org.au](mailto:admin@sportsa.org.au).



- Horse Industry

One of the areas experiencing difficulty with insurance is the horse sector. Recently Affinity Risk Partners, a Victorian based company, offered a Risk Management and Public Liability Insurance package for horse related businesses and associations. The packages are aligned with the recently released, national 'HorseSafe' Code of Practice.

For more information, contact Affinity Risk Partners on 03 9797 2436 or by email at [horses@affinityrp.com.au](mailto:horses@affinityrp.com.au).

For more information about the HorseSafe Code of Practice, contact Horse SA on 08 8294 2460.

- Individual Insurance Brokers

There are many insurance brokers in South Australia who may be able to assist you to source insurance, three of the larger agencies operating here are:

- AON Insurance: 08 8301 1111
- Marsh Insurance: 08 8211 7655
- Adelaide Risk Services: 08 8235 3444

More information on the various types of insurance available can be obtained from the Centre for Innovation, Business and Manufacturing, BizFact series. These can be downloaded from [www.cibm.sa.gov.au/bizfact](http://www.cibm.sa.gov.au/bizfact).

### **Recreational Services (Limitation of Liability) Act 2002**

The State Government has put in place this Act to further assist the providers of recreation services in terms of risk management, and it came into effect from July 1<sup>st</sup> 2003. The Act is equally applicable to not for profit organisations and businesses involved in the delivery of recreational services.

Under the Act, a person is able to submit a Code of Practice (code) for a particular recreational activity to be registered by the Minister for Consumer Affairs. The code must set out measures that a provider of recreational services will take to ensure a reasonable level of protection for consumers.

Once a code is registered and has taken effect, providers of recreational services to which the code applies can then register an undertaking to comply with the code.

The benefit of the Act is that it then allows a provider of recreation services to enter into a contract with a consumer (via a waiver) modifying the duty of care owed by the provider to the consumer, provided that the duty of care is governed by the registered code.

Codes are voluntary: no organisation is required to register or undertake to comply with a code. The choice is yours as an organisation or provider of an activity. It is simply one more option available to you as a provider of services.

Codes will, by their nature, be prescriptive and quite detailed, so taking this path will entail a considerable amount of work for the provider in preparing and lodging the code, and ongoing control to ensure that the code, once registered, is being complied with.

Who would want to register a code?

Ask yourself these questions:

Q: Is my organisation having trouble accessing insurance, or have they been faced with high costs for suitable insurance?


A: If YES you may benefit from registration.

Q: Does your organisation have a suitable risk management strategy already in place, and is this working for you by reducing accidents and injuries? If not, are you able to implement one to achieve this?

A: If NO to both questions, you may benefit from registration.

Q: Has your organisation or sector had a history of large insurance claims being made against it?

A: If YES, you may benefit from registration.



The intention of the Act is to assist organisations to obtain insurance by further limiting the chance of liability (like a risk management strategy), and to encourage insurers to offer organisations who agree to abide by a code, lower insurance premiums.

What to do?

Check the Office of Consumer and Business Affairs website for more information. This can be found at [www.ocba.sa.gov.au](http://www.ocba.sa.gov.au). Once you have done this, consider your specific situation, perhaps discuss it with your industry body, insurer, broker, or take legal advice.

Consider joining with other similar groups to share the cost of developing a common code, or alternatively consider registering to comply with a code already developed by someone else.

### **Volunteer Protection Act:**

The Volunteer Protection Act 2001 commenced operation within South Australia on 15 January 2002. The intent of this legislation is to provide protection to individual volunteers from personal liability for loss, injury or damage caused as a result of an act or omission on their part while undertaking their volunteering duties on behalf of an incorporated organisation.

It should be noted that there are exclusions to this protection and these are:

- Defamation
- Liabilities covered under compulsory third party motor vehicle insurance
- Volunteers affected by a recreational drug
- Volunteers acting outside of/ or contrary to activities authorised by the community organisation.

### ***What is the purpose?***

The purpose of the Act is to encourage people to volunteer their time to community organisations without the fear of litigation for doing their job.

Is there any protection for the community organisation?

There is no protection for the community organisation or parent body under this Act. In fact, the personal liability of the individual volunteer transfers to the parent body. The Act does NOT mean that incorporated organisations no longer require insurance. Organisations should seek professional advice from an insurance broker regarding their insurance needs as part of their risk management strategy.

More information on this Act is available from the Office for Volunteers website [www.ofv.sa.gov.au](http://www.ofv.sa.gov.au).

### **Disclaimer:**

The information provided in this presentation is for your information only. The Office for Recreation and Sport accepts no responsibility for the accuracy of the information or your reliance upon it.