

Information Sheet No.26

Incorporation and what it involves

Incorporation offers a degree of legal protection for office bearers and members of the association. Incorporation protects individual members, especially office bearers, from liability arising from the activities of the association. For example, where an accident has occurred, say in the canteen, a parent cannot be sued individually for negligence. Incorporation gives an association the rights, powers and privileges to enter into contracts in the name of the association, to sue and be sued and to acquire, hold and dispose of property. Members do not have any right, title or interest in the property of the association.

To become incorporated in the ACT, a P&C must formally adopt a constitution which complies with the terms of the *Associations Incorporations Act* (1991). This and the *Associations Incorporation Regulations* (1991) can be purchased from the **Registrar-General's Office, Allara House, Canberra City** on 6207 0473 or they can be found on the internet at <http://www.rgo.act.gov.au/associations.html>

The **constitution** is a set of rules identifying the P&C by its official name and setting out the aims of the association. It also identifies the duties and responsibilities of office-bearers, membership of the association as well as frequency of meetings, quorum numbers and voting rights, etc. Committee members should be aware of the requirements of the constitution as they are legally binding.

The constitution for your association should be kept in the files of the President and Secretary and also in a general file where important P&C documents are stored. A model constitution is available from the Council office.

Incorporated P&Cs should hold a copy of their **Certificate of Incorporation** in the association's files. (The association should store important documents and publications essential for reference at the school so that they are not lost with changing committees.) In some instances, a P&C association needs to use its **Common Seal** for official purposes.

If an association is incorporated, certain procedures which must be followed apply to:

- the registration of the association
- the presentation of audited financial accounts
- the holding of an Annual General Meeting (AGM)
- the appointment of a public officer
- the appropriate lodgement of association papers

Fees apply to all documents required to be lodged under the Act. Penalties may be incurred for non-compliance with the Act. ★