

# Youth organisations

## A guide to setting up and running a youth organisation

Jun 2023



# Contents

<b>Part 1</b>	<b>3</b>
<b>Setting up a youth organisation</b>	<b>4</b>
Can your organisation have ‘youth’ members?	6
Members of the board or committee	6
Members of the organisation	8
Sub-committees of the organisation	8
What reporting requirements will your organisation have?	9
Can your youth organisation register as a charity?	9
What obligations would your organisation have if it registered as a charity?	10
Will your organisation be able to get deductible gift recipient endorsement?	11
Should you consider using a memorandum of understanding or an auspice agreement?	13
<b>Part 2</b>	<b>15</b>
<b>Running a youth organisation</b>	<b>16</b>
What legal duties apply to your youth-led governing body?	16
What happens if the governing body doesn’t fulfil these duties?	17
What legal duties apply to an external advisory committee for a youth organisation?	17
What other laws apply to youth organisations?	18
Laws that are particularly relevant to youth organisations	18
Record keeping	20
What legal duties do you owe your volunteers?	22
Do ‘young volunteers’ have any special requirements?	22
Does your organisation need to have policies or procedures in place?	23
Does your organisation need to have a risk management plan?	23



# Part 1

## Starting a youth organisation

# Setting up a youth organisation



## This part covers:

- ▶ Can your organisation have 'youth' members?
- ▶ What reporting requirements will your organisation have?
- ▶ Can your youth organisation register as a charity?
- ▶ Will your organisation be able to get deductible gift recipient endorsement?
- ▶ Should you consider using a memorandum of understanding or an auspice agreement?

Youth organisations often have questions about setting up and running their organisation.

This guide answers common questions and provides some guidance about the issues you need to think about when setting up and running a youth organisation.



## Disclaimer

This guide provides general information about setting up and governing a youth organisation. This information is a guide only and is not legal advice. If you or your organisation has a specific legal issue, you should seek legal advice before deciding what to do.

Please refer to [the full disclaimer](#) that applies to this guide.

The table below sets out some of the words and phrases used in this guide.

Word or phrase	Definition
<b>Committee or board</b>	The governing body of an organisation
<b>Committee members or directors</b>	The people that sit on the committee or board of an organisation.
<b>Governing documents</b>	The roadmap for running an organisation. Officially known as the 'rules' or 'constitution' of an organisation. It is a legal requirement that an organisation and its members follow the rules of the organisation.
<b>Members</b>	The people that hold membership in an organisation. Members typically have the right to vote on certain matters, receive information about the organisation and elect and remove the people that sit on the governing body.



<b>Model rules or constitution</b>	Set of rules drafted by the Government as a template that groups can use if they do not want to write their own.
<b>Youth</b>	Usually means people under 18 years of age, but this may depend on the issue being discussed.
<b>Youth organisation</b>	Organisation either run by, involving, or providing services to youth or advocating about youth issues.



### Tip

This guide answers common questions which are specific to youth organisations.

We recommend you also consider the broader information available on our [website](#). We have included relevant links throughout this guide as well.

Young people can start and run their own incorporated group.



### Note

Legal duties apply to an organisation run by young people in the same as any other organisation.

Because legal duties apply to your organisation and its leaders regardless of the age of the members of the governing body, if you are considering having youth members of your governing body, you should think carefully about whether:

- the young people involved are equipped to understand and comply with these legal duties (covered below), and
- the law allows it in your state or territory

Your group will need to decide whether to incorporate.



### What does being incorporated mean?

Incorporation gives your group its own legal identity that is separate from its individual members.

The incorporated group is its own unique legal 'person'.

Incorporated groups can enter into contracts, employ people, and sue and be sued. Incorporated groups have a legal structure, with rules (or a constitution), members, and a governing body.



## More information – incorporation

For more information, see [our webpage 'What does incorporation mean, and should you incorporate?'](#)

If you decide to incorporate, the next step is to choose a legal structure.

A number of incorporated legal structures are suitable for not-for-profit community organisations. For many not-for-profit organisations, including youth organisations, the decision about which incorporated structure to choose will come down to a decision between being an 'incorporated association' or a 'company limited by guarantee'. You may also decide a co-operative structure may be suitable for your organisation.

<b>Companies limited by guarantee</b>	Companies limited by guarantee are governed by federal (Australia-wide) laws.
<b>Incorporated associations</b>	Incorporated associations are state or territory legal structures and are primarily governed by state laws (as are cooperatives, although states and territories have adopted the <a href="#">cooperatives national law</a> ).



## More information – choosing a legal structure

For more information, see our webpages:

- ['Which incorporated legal structure should you choose'](#)
- ['How to set up your organisation'](#)

Alternatively, instead of incorporating, your group may wish to enter into an **auspicing** arrangement with another organisation. This means the other organisation has ultimate responsibility for your group's activities, but your group can run projects under the auspices of the other organisation. Auspice agreements are discussed below.

# Can your organisation have 'youth' members?

## Members of the board or committee

If you incorporate, your organisation will have a committee (or board) members. Whether you can have people under the age of 18 as a committee member depends on the legal structure of your organisation and your rules or constitution.

<b>Companies limited by guarantee</b>	If your organisation is a company limited by guarantee, board members (also called directors) and the company secretary must be 18 years or older.
<b>Incorporated associations</b>	In most states and territories, incorporated associations can choose to write their own set of rules or a model constitution (to govern the association) or adopt a set of model rules or a model constitution.  Some age restrictions exist in these model rules or constitutions – these may be relevant in deciding whether your organisation wants to adopt them in full or in part. See below for more information



### Caution

If you amend the model rules or model constitution, be careful not to remove or alter a rule that is required by law. For more information, see [our webpage on 'Managing an organisation's rules or constitution'](#).

The table below sets out age restrictions for incorporated associations in each state and territory

State or territory	What the law says		Model rules or model constitution
	Board or committee member	Secretary or public officer	Are there additional restrictions which may apply if you adopt the model rules or constitution?
Victoria	No age restriction	Must be 18 years or older	Yes – committee members to be 18 years or older
New South Wales	Must be 18 years or older	Must be 18 years or older	No
South Australia	No age restriction	Must be 18 years or older	While South Australia doesn't have model rules, example rules developed for incorporated associations don't include any age restrictions
Queensland	Must be 18 years or older	Must be 18 years or older	Yes – committee members to be 18 years or older
Western Australia	No age restriction	Not compulsory to have this position. No age restriction.	Yes – committee members to be 18 years or older
Northern Territory	No age restriction	No age restriction	Yes – committee members to be 18 years or older
Australian Capital Territory	No age restriction	Must be 18 years or older	No
Tasmania	No age restriction	Must be 18 years or older	No



### Note

The table above only considers restrictions on the age of people for these positions. There may be additional restrictions based on where the person lives or their personal history, such as if they have been or are currently insolvent (bankrupt) or have a criminal history.

In addition, it's important that the person be able to meet their duties as a committee member. For more information see [our webpage 'Who runs the organisation'](#).



### More information – bringing on a new board member

It's important that all committee or board members are aware of the duties and obligations associated with their role. When you bring on a new committee or board member they should have an induction. See [our fact sheet on board inductions – bringing on a new board member](#).

## Members of the organisation

It's possible to create different classes of membership with different voting rights in your rules or constitution. For example, you could have 'young members' (which you could define as under 16, with a lower membership fee) that don't have voting rights and 'full members' (which you could define as over 16, with a higher membership fee) that do.

Some of the model rules impose restrictions on membership rights based on age. This may impact your organisation's decision on whether to adopt the model rules in full or part.



### Caution

If you amend the model rules or model constitution you need to be careful you don't remove or alter a rule that is required by law. For more information, see [our constitution webpage](#) or seek legal advice.

State or territory	Age restrictions found in model rules or model constitution
Victoria	Members under 15 years of age are called associate members and do not have voting rights
New South Wales	Members under 18 years of age do not have voting rights
South Australia	No model rules option available
Queensland	None
Western Australia	Members under 15 years of age are called associate members and do not have voting rights
Northern Territory	None
Australian Capital Territory	None
Tasmania	None

## Sub-committees of the organisation

If your organisation's legal structure restricts people under 18 years of age from being directors, committee members or members, your organisation may decide to set up a sub-committee in which young people can take part.

Sub-committees are a small group of people assigned to focus on a particular task or area for an organisation (for example, finance, risk, or more relevantly, youth-focused issues).

Typically, an organisation's governing body would establish a sub-committee, and the sub-committee would report back to the governing body. Check your organisation's governing document before establishing a sub-committee to see if there are any procedures your organisation is required to follow (for example, some





governing documents require sub-committees to be chaired by people who also sit on the governing body, or they might require certain meeting procedures to be followed).



### More information – running an organisation

For more information about what the committee or board does in an organisation, and the various positions which may need to be filled, see [our webpage on 'Who runs the organisation'](#).

## What reporting requirements will your organisation have?

Regardless of whether you incorporate under state or federal law, you will generally need to report to a regulator annually and when certain other events occur (for example, a change in the organisation's registered details).



### More information – reporting to government

For more information, see [our webpage on 'Financial reporting to government'](#).

Different requirements apply if your organisation is also a registered charity (see below).

## Can your youth organisation register as a charity?

If your organisation is eligible, you can become a registered charity with the Australian Charities and Not-for-profit Commission (**ACNC**)!

The ACNC is the national regulator of charities.



### What is a charity?

A charity is an entity:

- which is not-for-profit
- has purposes that are charitable and for the public benefit (and any non-charitable purposes it has are incidental or ancillary to, and in furtherance or in aid of, its charitable purposes)
- which does not have any disqualifying purposes, and
- which is not an individual, political party or government entity

As a registered charity, your organisation may be entitled to apply to be endorsed by the Australian Taxation Office (**ATO**) for certain tax concessions, in particular goods and services tax, fringe benefit tax concessions, income tax exemptions or deductible gift recipient endorsement (see further information on deductible gift recipient endorsement below).



## More information – charity registration and tax

For more information on registering as a charity, see [our webpage 'Should your group register as a charity?'](#)

For more information on tax concessions for charities, see [our webpage 'Understanding the tax landscape'](#)

## What obligations would your organisation have if it registered as a charity?

An organisation registered as a charity must meet special obligations that apply to charities. Depending on your legal structure, these obligations may be in addition to your existing obligations, and sometimes may replace some of your obligations to your regulator.

Examples of where charity reporting obligations replace most regulator reporting obligations include incorporated associations and companies limited by guarantee.



## More information – the ACNC

The ACNC has [published a summary](#) of the progress it has made in reducing red tape for charities by streamlining reporting.

For more detail about how charity obligations interact with other obligations, see [our webpage on reporting to the ACNC](#).

## A charity's key obligations are summarised in the table below

Obligation	Brief description
<b>Comply with ACNC governance standards</b>	<p>Charities must meet the ACNC's six <a href="#">governance standards</a>, which are a set of minimum requirements for governance.</p> <p>A charity must meet the governance standards when it applies to the ACNC for registration and must continue to meet the governance standards to maintain its registration.</p> <p>These standards are similar to the requirements that must be met if you are an incorporated association or company limited by guarantee that is not a registered charity.</p> <p>The ACNC legislation also provides for a set of minimum standards to regulate registered charities who send money or participate in activities outside Australia (called external conduct standards). Charities must comply with these external conduct standards to be registered, and remain registered, with the ACNC.</p>
<b>Record keeping</b>	Charities must keep records, including financial and operational records.
<b>Annual reporting to ACNC</b>	<p>The type of reports that must be submitted depends on the size of the charity. <a href="#">The ACNC has guidance on determining the size of your charity</a>.</p> <ul style="list-style-type: none"> <li>• Small charities are required to submit an Annual Information Statement once each year and can submit an annual financial report if they choose (which does not have to be audited).</li> <li>• Medium charities are required to submit either reviewed or audited financial reports each year as well as an Annual Information Statement.</li> <li>• Large charities are required to submit audited financial reports each year as well as an Annual Information Statement.</li> </ul>

**Notify ACNC of any changes**

Charities need to notify the ACNC when certain things change, including:

- changes to the legal name of the organisation
- changes to the address for service (where legal documents can be sent)
- change to the 'responsible persons' (people who are members of your charity's governing body including directors or committee members, or its trustees), and
- changes to the governing documents (such as its constitution, rules or trust deed)

**More information – the ACNC**

For more information, see the [ACNC webpage 'ACNC Governance Standards'](#) and the ACNC's guide [Governance for Good – the ACNC's guide for responsible people](#).

## Will your organisation be able to get deductible gift recipient endorsement?

Being an endorsed deductible gift recipient (**DGR**) means donations over \$2 to your organisation are a tax deduction. This endorsement can help increase the number and amounts of donations. Applying for DGR endorsement can be a long and difficult process, so before applying organisations should make sure the rewards of achieving DGR endorsement are worth the effort.

### In general, to be eligible for DGR endorsement organisations must:

have an Australian Business Number ( <b>ABN</b> )	<input type="checkbox"/>
meet 'in Australia' requirements as defined in tax law (or have a fund, authority or institution operating in Australia)	<input type="checkbox"/>
be a not-for-profit organisation (this will usually involve having appropriate not-for-profit and dissolution clauses in your organisation's governing documents)	<input type="checkbox"/>
have an appropriate winding up and revocation of endorsement clause in your organisation's governing documents, and	<input type="checkbox"/>
fall within one of the categories of DGR specified in the tax law. There are around 50 different DGR categories and each has its own specific requirements	<input type="checkbox"/>

Common categories for DGR endorsement particularly relevant to youth organisations include:

- **public benevolent institutions** – that provide relief to those experiencing disadvantage such as by helping people experiencing illness, homelessness or poverty
- **health promotion charities** – that promote prevention and control of disease (rather than providing relief)
- **environment organisations** – organisations whose principal purpose is the protection and enhancement of the natural environment or a significant aspect of it, or research or education about the environment or a significant aspect of it
- **cultural organisations** – organisations whose principal purpose is the promotion of literature, music, performing arts, craft, design, film, video, radio, community arts or television
- **harm prevention charities** – that work towards preventing harm (for example alcohol abuse or suicide)



### Caution

Each category of DGR has certain 'eligibility criteria' that must be met to be endorsed by the ATO. These criteria can be quite technical so your organisation should seek advice about whether it is likely to satisfy the requirements for endorsement.

Applying for DGR can be a long and costly process, so it's important that your organisation carefully considers the need for DGR status.



### More information – DGR

For a full list of DGR categories, see [the ATO's DGR Table](#).



### Tip

Youth organisations most commonly fall under the categories of a **public benevolent institution** (if providing services to disadvantaged youth) or a **health promotion charity** (if promoting the prevention or control of a disease or diseases (including mental health) among youth).

Record-keeping (and potentially reporting requirements) also come with being a DGR. Sometimes the burden of extra administration and DGR requirements will outweigh the benefit of DGR status.

Consider whether DGR endorsement will be of sufficient benefit to your organisation to justify the application process and ongoing compliance with the extra requirements.

As an alternative to your organisation being endorsed as a DGR, it could work with an existing organisation which has DGR status. This could be for a specific project, rather than all your organisation's activities. It could be a long term arrangement, or it could be used to establish a track record for a future DGR application. We explore this option further below where we discuss the difference between a Memorandum of Understanding and an auspice agreement.



### More information – DGR

For more information about DGR endorsement, including the process for applying and the obligations of DGR endorsed organisations, see our [guide to deductible gift recipient status](#).



## Should you consider using a memorandum of understanding or an auspice agreement?

Memorandums of understanding (MoUs) and auspice agreements are both ways that groups can work together, however, they are quite different and it is important to understand the different ways they work.

	Memorandum of Understanding (MoU)	Auspice Agreement
<b>Description</b>	<p>A MoU is the least formal type of collaborative agreement and is not normally a legally binding arrangement (unless the MoU expresses an intention to be legally bound).</p> <p>MoUs are often referred to as 'agreements to agree'. A comprehensive agreement is often formed at a later time after further negotiations.</p> <p>MoUs often set out shared understandings about how organisations will work together.</p>	<p>To 'auspice' means to provide support, sponsorship or guidance. The group or individual requiring support is known as the 'auspicee' and the organisation that auspices the group or individual is known as the 'auspicator'. The 'auspicator' is usually incorporated. The 'auspicee' is often unincorporated.</p> <p>When using an auspice arrangement, the relationship is often described as one where the auspicee will be carrying out activities 'under the auspices of' the incorporated auspicator'. The auspicator often receives funding or enters into relevant agreements for the auspicee. The relationship is usually set out in an auspice agreement (which is generally a legally binding arrangement).</p>
<b>When is it used?</b>	<p>MoUs will typically be used in the not-for-profit sector when organisations wish to co-operate with each other, allowing each to make the most of the other's specialist skills, knowledge or resources or efficiently service a particular need.</p> <p>MoUs are not normally considered legally binding. Therefore, you should not use a MoU if your organisation wants to be able to enforce a part of the agreement. If you need to rely on an organisation taking certain actions or if your organisation stands to lose money if another organisation which signs the MoU doesn't do what they say they would do – your organisation should enter into a binding contract, rather than a MoU.</p>	<p>The most common reason for a group or individual to seek to be auspiced is a need to quickly and easily meet grant funding requirements. Grant funding can often require a recipient to be incorporated, be a Tax Concession Charity or have deductible gift recipient (DGR) endorsement.</p> <p>Where a group or individual only wants to run a short term project, or is exploring a model and wishing to trial an idea before committing to incorporation, auspicing arrangement can offer a neat solution.</p> <p>Youth run groups may wish to consider an auspicing arrangement if they don't want to take on the duties and responsibilities which come with incorporating.</p> <p>Normally the auspicee would approach the auspicator. The auspicator may charge a fee for auspicing the auspicee.</p>
<b>What does the document look like?</b>	<p>MoUs will typically establish a framework for collaboration between organisations and express the common goals or vision of the organisations involved.</p> <p>In general, a MoU will not deal with the specific details of particular projects. A MoU is therefore usually more of a 'high level' agreement.</p>	<p>An auspicing agreement sets out the legal obligations of both the auspicator and auspicee toward each other and in relation to any specific funding or other agreements.</p>



## More information – MoUs and auspicing

For more information, see our webpages [‘What is auspicing?’](#) and [Memorandums of Understanding](#).

## What now?

We recommend you use our free [Getting Started tool](#), which covers:

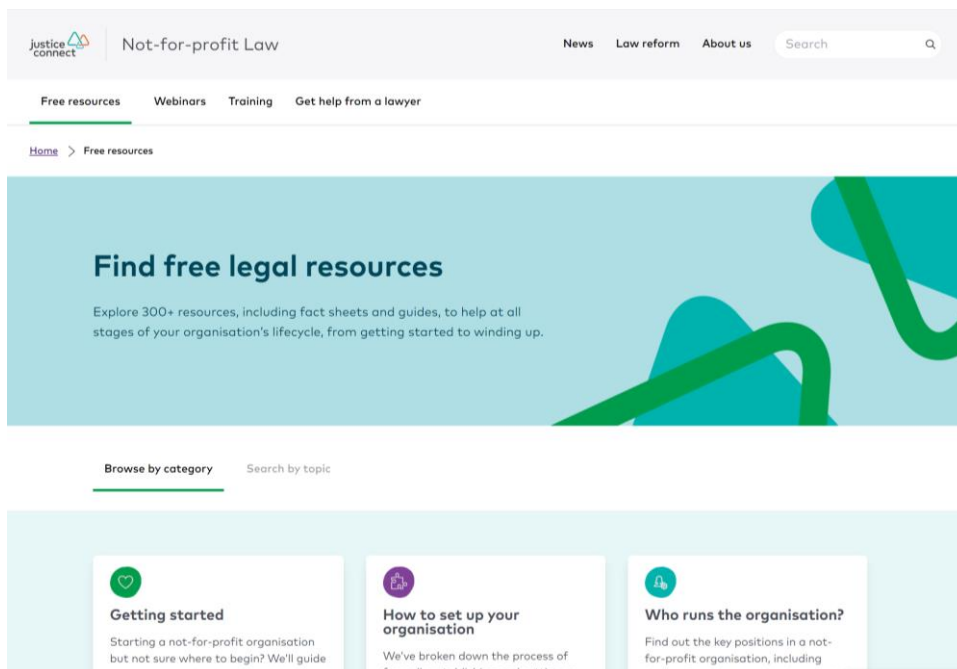
- the benefits and obligations of incorporating, and
- the legal structures available

The tool also considers whether your organisation is eligible to register as a charity with the ACNC.

The tool is free and produces a report that is tailored to your organisation.

Once you’ve decided on the structure of your organisation, see [our webpage ‘How to set up your organisation’](#) to work out your next steps. There are also fact sheets available for specific legal structures.

**Fact sheets and other resources are available on [our website](#).**



The screenshot shows the 'Free resources' page on the Justice Connect website. The page header includes the Justice Connect logo, 'Not-for-profit Law', and navigation links for 'News', 'Law reform', and 'About us'. A search bar is also present. Below the header, there are tabs for 'Free resources', 'Webinars', 'Training', and 'Get help from a lawyer'. The main content area features a large heading 'Find free legal resources' and a sub-heading 'Explore 300+ resources, including fact sheets and guides, to help at all stages of your organisation's lifecycle, from getting started to winding up.' Below this, there are two options: 'Browse by category' (selected) and 'Search by topic'. At the bottom, there are three featured resource cards: 'Getting started' (with a heart icon), 'How to set up your organisation' (with a document icon), and 'Who runs the organisation?' (with a person icon).



# Part 2

## Running a youth organisation

# Running a youth organisation

## This part covers:

- ▶ What legal duties apply to your youth-led governing body?
- ▶ What legal duties apply to an external advisory committee?
- ▶ What other laws apply to youth organisations?
- ▶ What legal duties do you owe your volunteers?
- ▶ Do 'young volunteers' have any special requirements?
- ▶ Does your organisation need to have policies or procedures in place?
- ▶ Does your organisation need to have a risk management plan?



Youth organisations often have questions about setting up and running their organisation.

This guide answers common questions and provides some guidance about the issues you need to think about when setting up and running a youth organisation.

## What legal duties apply to your youth-led governing body?

The members of the governing body (board or committee) of your youth organisation owe the same legal duties as those governing other types of not-for-profit organisations regardless of their age.

### Four main legal duties of governing body members

1. Duty to act in good faith and for proper purposes

2. Duty to act with reasonable care, skill and diligence

3. Duty not to dishonestly use position or information

4. Duty to avoid conflicts of interest

As part of these four key legal duties, a not-for-profit's governing body must ensure the organisation:

- complies with general legal and regulatory requirements – in particular, that it prepares reports, annual returns and financial accounts as required – and other laws, such as [privacy laws](#) and [work health and safety laws](#), and
- doesn't breach any of the requirements or rules set out in its governing document and that it acts in accordance with the purpose or objects set out in that document



## What happens if the governing body doesn't fulfil these duties?

If it's found you have breached a legal duty as a board or committee member, you may be personally liable for this breach, which could result in the following:

- **finances or compensation** – paying fines set out in the incorporating legislation or having to pay the not-for-profit or a third party for losses related to the breach
- **disqualification** – the person who breached a duty can be prevented from sitting on any governing body (board or committee) for a period, and
- **criminal penalties** – in extreme cases, if board members are deliberately dishonest or reckless and the breach is significant, some of their actions may attract criminal penalties

While prosecution is a rare event and will likely only be taken where there is a degree of deliberate wrongdoing, extreme recklessness or negligence, it's important to remember the reputational consequences of a breach of the duties. These can sometimes be more significant than the legal penalties.



### More information – legal duties

For more information about the key legal duties owed by governing members of not-for-profit organisations (including incorporated associations, companies limited by guarantee, cooperatives and Indigenous corporations), see our [Duties Guide](#).

## What legal duties apply to an external advisory committee for a youth organisation?

Generally, there are no particular legal duties that apply to an external advisory committee of a youth organisation (or other not-for-profit organisation).

The legal duties discussed above apply to all members of the governing body (board or committee). These duties may also apply to someone who is not a formal member of the governing body if they act in a way that is similar or the same as someone on the governing body. This may be the case where an advisory committee member is particularly influential or acts and is treated in the same way as a member of the governing body. Having a 'volunteer agreement' in place and a clear description of the role and responsibilities of the advisory committee may be useful in clarifying the boundaries of the role and whether that role could attract legal duties.

Advisory committee members should be careful not to share information about the organisation gained as a result of advising the group.



### More information – managing constitutions and volunteers

For more information, see our [webpage on managing an organisation's rules or constitution](#) and our [webpage on managing volunteers](#).

## What other laws apply to youth organisations?

There are many laws that could potentially apply to youth organisations – for example, privacy, employment, fundraising, intellectual property and tax. See [our website](#) for information on these issues (and more)

## Laws that are particularly relevant to youth organisations

### Laws that are particularly relevant to youth organisations include:

#### Child safety – working with children checks

Each state and territory has requirements for ‘working with children’ checks for volunteers and employees who will potentially have contact with young people.

We have published Screening Check Guides for each state and territory on [our webpage on background checks](#).

#### Child safety – mandatory reporting

Various mandatory and voluntary reporting schemes relating to child safety operate around Australia.

In NSW, Victoria, ACT and Western Australia, reportable conduct schemes apply to the heads of certain types of organisations and bodies, such as the CEO, if they become aware that a child abuse allegation has been made against an employee, volunteer, director or contractor.

Tasmania and Queensland are expected to also implement reportable conduct schemes.



It's recommended that any organisation that works with children or young people has a procedure for responding to a report of suspected or actual child abuse.

### Child safety – failure to report

There are consequences in each state and territory if someone who is required to make a report fails to do so. These may be a fine or imprisonment.

Victoria and NSW have specific offences for 'failure to disclose' and 'failure to protect'.

In Victoria, any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 has an obligation to report that information to police.

In NSW, any adult who knows, believes or reasonably ought to know that a child abuse offence has been committed against a child under 18 has an obligation to report that information to the police.

Failure to disclose the information to police is a criminal offence.

An offence (called 'failure to protect') also applies to people in relevant organisations who knew of a risk of child sexual abuse by someone in the organisation and had the authority to reduce or remove the risk, but negligently failed to do so.

### Child safety – minimum child safe standards

The [National Principles for Child Safe Organisations](#), aim to provide a nationally consistent approach to creating organisational cultures that foster child safety and wellbeing. Although Australian organisations are not legally required to adopt them, the National Principles are considered best practice for fostering child safety and wellbeing culture and practice.

In Victoria, organisations that engage youth volunteers (or provide services to children) must comply with the [Child Safe Standards](#) as set out in the [Child Wellbeing and Safety Act 2005 \(Vic\)](#). The [Victorian Commission for Children and Young People](#) is the oversight body for the Standards. You can find more information about the Standards, including information about who the Standards apply to on the [Commission's website](#).

In New South Wales, agencies delivering services to children and young people must comply with [Child Safe Standards](#) adopted by the New South Wales government. The [Office of the Children's Guardian](#) has responsibility to implement the Standards.

In South Australia, certain organisations must provide child safe environments and comply with the requirements under the [Children and Young People \(Safety\) Act 2017 \(SA\)](#) and the [Child Safety \(Prohibited Persons\) Act 2016 \(SA\)](#). These organisations must have a child safe environments policy in place, meet working with children check obligations, and lodge a child safe environments compliance statement, which should all cover youth volunteers

### Work conditions of young people

Organisations have special obligations relating to children engaging in volunteering and other activities, such as employment.

For example, in Victoria under the [Child Employment Act 2003 \(Vic\)](#):

- a not-for-profit organisation must not allow a child (under the age of 15) to engage in activities in a public place or engage in door-to-door fundraising earlier than 6am or sunrise (whichever is later) or later than 6pm or sunset (whichever is earlier), unless the child is accompanied by an adult, and
- a person must not cause or permit a child to engage in any activity that is not 'light work' (for more information, go to the [Business Victoria webpage on child employment laws and requirements](#))



### More information – volunteers

For more information about the legal issues that relate to volunteers, see our [webpage on managing volunteers](#).



### More information – Victoria

For Victorian organisations, see [our fact sheet on child safety in Victoria](#).

## Record keeping

There are many sources of record keeping obligations. For example, there are particular laws around health records, personal information, and in circumstances where there is actual or threatened criminal litigation against the organisation or any of its clients.

In relation to youth, employers in some states may be required to keep additional records. See the specific government body listed below for where to find this information.



### More information – record keeping

For general record keeping requirements, see [our webpage on record keeping](#).



## More information – child safety and employment

For more state or territory based information, see the relevant resource:

### Victoria

- [Commission for Children and Young People](#)
- [Department of Families, Fairness and Housing](#)
- [Department of Justice and Community Safety](#)
- [Youth Affairs Council of Victoria](#)
- [Business Victoria](#)

### New South Wales

- [Office of the Advocate for Children and Young People](#)
- [Office of the Children's Guardian](#)
- [Youth Action](#)
- [Department of Communities and Justice](#)

### Queensland

- [Queensland Family and Child Commission](#)
- [Youth Affairs Network of Queensland](#)
- [Business Queensland](#)
- [Department of Children, Youth Justice and Multicultural Affairs](#)

### South Australia

- [Commissioner for Children and Young People](#)
- [Youth Affairs Council of South Australia](#)

### Tasmania

- [Commissioner for Children and Young People](#)
- [Youth Network of Tasmania](#)
- [Department of Health](#) and [Department of Communities](#)

### Australian Capital Territory

- [Children and Young People Commissioner](#)
- [Youth Coalition of the ACT](#)
- [Community Services](#)

### Northern Territory

- [Office of the Children's Commissioner Northern Territory](#)
- [Northern Territory Government information and services](#)

The [Australian Institute of Family Studies](#) has also published an overview of child protection legislation in each state and territory in Australia, as well as other useful resources.

## What legal duties do you owe your volunteers?

Your organisation has certain obligations towards its volunteers and to people your volunteers work with.

For example:

- you shouldn't allow a volunteer to start any work where they may come into contact with children unless they have a working with children check (**WWC Check**) – this is not always a legal requirement but should be done as best practice
- your organisation may have legal obligations to protect the health and safety of your volunteers, and
- negligence laws also require your organisation to take reasonable steps to prevent foreseeable harm, injury or loss. This includes taking reasonable steps to prevent your volunteers being subject to harmful 'workplace' behaviour such as injuries, discrimination, sexual harassment, bullying and victimisation

In certain situations, your organisation may also be held legally responsible (be liable) for the actions of its volunteers as representatives of your organisation – for example if your volunteer causes an injury or harm to another person or property while undertaking their volunteer role.

This makes it crucial for your organisation to have good volunteer induction and management practices (which include obligations for the mandatory reporting of child abuse, where relevant), workplace safety and behaviour policies and insurance in place in relation to your volunteers.



### More information – volunteers and work, health and safety

For more information, see our [webpage on managing volunteers](#) and our [webpage on health and safety](#).

## Do 'young volunteers' have any special requirements?



### Note

All your obligations to your volunteers extend to your young volunteers. You may also have additional conditions for child volunteers.

When you have young volunteers, your organisation should consider:

- its duty of care to provide a safe workplace for young volunteers
- whether the young person has the required skills or experience to safely perform the volunteer role
- whether its insurance policies apply to young volunteers (both harm caused to volunteers and the actions of volunteers in respect of damage or harm to other people or their property)
- the requirement that people working with the young volunteers have working with children checks
- whether it needs consent from parents or parents present for very young volunteers, and
- the fact that young people are particularly vulnerable and may need special policies and procedures around the activities they perform (depending on their age)



### More information – volunteers

For more information about the legal issues that relate to volunteers, see our [webpage on managing volunteers](#).

## Does your organisation need to have policies or procedures in place?

As discussed above, the board or committee members have particular legal duties in relation to governing the organisation. These duties include making sure the organisation takes all reasonable steps to mitigate the risks to the health and safety of its staff, volunteers, clients and other members of the public.

Your organisation may have a legal duty of care under the common law (judge made law) of negligence, or under the negligence provisions in state and territory legislation in addition to work health and safety laws (as above).

While there is no general legal obligation for an organisation to have a set of specific policies in place, it's good practice to have governance policies which cover certain matters (in limited circumstances some laws will require some organisation to have policies in place, for example, in relation to whistleblowing).



### More information – negligence

For more information, see [our webpage on negligence, accidents and incidents](#). The resources here explain how a duty of care arises and discusses risks and risk management.

Developing appropriate policies and procedures helps ensure compliance with various legal duties, including any obligation of duty of care.

As a youth organisation you should have a child safety policy.

Other policies may relate to:

- good governance
- financial management
- management of volunteers and employees
- health and safety
- privacy, IT and social media

It's important to keep in mind that you may be required to have certain policies under government funding or other contractual arrangements.

## Does your organisation need to have a risk management plan?

Risks can expose your organisation, and sometimes individuals, to liability (legal responsibility) that can have serious legal, financial and reputational consequences.

If you are involved in a community organisation, no matter what size, it's a good idea to discuss two simple questions:

- What 'bad things' might happen as a result of the operation or activities of our organisation?

- What can we do to avoid these risks, or at least minimise the chance they will happen, and if they did happen, what protections should be have in place (such as insurance policies)?

Many organisations establish a risk committee that is responsible for undertaking this analysis and reporting back to the board or committee. This process should:

- involve both the board or committee and senior staff (where applicable)
- be documented, and
- include a timeframe for review (for example, annually)



### More information – insurance and risk management

For more information about insurance and risk management, go to our [Insurance and Risk Management guide](#).

## How can you stay up to date with changes to the laws relevant to youth organisations?



Follow us on [Twitter @nfp\\_law](#)



Follow us on [Facebook](#)



[Subscribe](#) to our monthly newsletter



