

CLUB INCORPORATION



A football club must be incorporated (or a company) and compliant with all that is required by being incorporated.

WHY DOES A CLUB NEED TO BE INCORPORATED?

Incorporation provides a club with a legal identity distinct from its members, therefore relieving the members of the committee and the club from liability for authorised acts of the club. It is a major protection for clubs with regard to legal issues; however, it does not prevent actions for negligence against individuals.

DOES YOUR CLUB HAVE TO BE INCORPORATED?

Although there is no legal requirement for a football club (or association) to become incorporated, AFL NSW/ACT does require all its affiliated clubs to be incorporated.

WHAT ARE THE RISKS OF NOT BEING INCORPORATED?

The law does not recognise a club (or association) as having any legal existence in its own name unless it is incorporated, and legal rights and obligations can fall on to individual members.

If a club is not incorporated (or a company), they are not covered for insurance such as Public Liability or Club Management Liability.

Public Liability Insurance covers a range of financial risks such as club's legal costs or other costs associated with legal proceedings. Club Management Liability Insurance covers a range of financial risks for a club's directors and officers such as costs associated with legal proceedings for:

- Negligence, libel, slander, defamation, discrimination, etc.
- Employment related matters (unfair dismissal)
- Club Management Liability can also cover some of the costs associated with an employees or officers stealing funds from the club.





HOW DOES YOUR CLUB BECOME INCORPORATED?

If the legal association does not already exist, follow these steps:

1. CHOOSE A NAME

The proposed name should reflect the purpose of the association. NSW Fair Trading will determine if the proposed name is acceptable.

In most cases, a name will be unacceptable if it is identical or similar to one that is already registered. Applicants can check if a name is similar to one already registered by searching the Organisation and Business Names search facility on the Australian Security and Investments Commission website at connectonline.asic.gov.au

You can also find out if the proposed name is registered by an incorporated association by doing a free online search through the NSW incorporated associations online register. This provides key information about incorporated associations registered in NSW, including an entity's incorporation name and number, date of incorporation and registration status.

2. ESTABLISH OBJECTS AND CONSTITUTION

AFL NSW/ACT can provide a template club constitution. For information on the constitution, visit the About the constitution page on the Fair Trading website.

3. AUTHORISE AN APPLICATION FOR REGISTRATION OF THE INCORPORATED ASSOCIATION

An application for registration includes:

- the proposed name of the association;
- a statement of the association's objects;
- a copy of the association's proposed constitution, or a statement that the association's proposed constitution adopts the model constitution without modification, and
- the association's first public officer.

In the case of 5 or more individuals proposing to register an association, they are each required to authorise the first public officer to apply for incorporation of the association.

In the case of an existing unincorporated body, the application must be authorised by a special resolution passed by members of the unincorporated body. A copy of the special resolution must be included with the application for registration.

4. APPLY FOR REGISTRATION OF THE INCORPORATED ASSOCIATION

The association's first public officer must lodge with Fair Trading an Application for registration of an incorporated association, together with the prescribed fee.

The application can be lodged:

- by mail to Registry Services, PO Box 22, Bathurst NSW 2795;
- by email to registrylodgements@finance.nsw.gov.au, together with completed credit card details; or
- in person at any Service NSW Centre.

ARE THERE COSTS FOR THE CLUB TO BECOME INCORPORATED?

Yes, however these fees are minimal. More information can be found on the NSW Fair Trading website.