

In most cases your organisation will be legally responsible for any accident or injury to your volunteers or caused by your volunteers. Getting the right insurance can help you limit the fallout when things go wrong.

You are responsible

Community organisations and the people who run them have many responsibilities under the law. You must:

- take reasonable steps to ensure the safety of everyone who comes into contact with your activities – staff, volunteers, clients, even passers by
- make sure your work is carried out with the utmost care and skill so that no harm comes of it, accidentally or otherwise
- practice good financial management and make sure your organisation and its officers act within the law.

If you fail in these responsibilities, the consequences can be significant, sometimes involving financial penalties. So above all, you have a responsibility to protect the future of your organisation, for the sake of your members, your clients, your community and your board and officers.

It wouldn't happen to us...

In any of these scenarios your organisation and/or your board members could be considered legally responsible.

- A volunteer trips over in your office and breaks their wrist
- A volunteer driver has a car accident, damaging another car
- A professional volunteer gives advice that turns out to be wrong, causing the client significant harm
- Event participants damage the hall you have hired
- Someone has an allergic reaction to food that has been wrongly labelled
- Your computer system is hacked and confidential client files are exposed
- An officer commits a fraud right under the nose of the board
- Your partner organisation goes bankrupt leaving a trail of debts

But the volunteer did it!

In Victoria, there is legislation that protects volunteers from personal liability if something goes wrong while they are carrying out their agreed volunteering duties (s 37 and s 38 of the Wrongs Act 1958 (Vic)). Responsibility for the volunteer's action usually passes to the community organisation. While there can be exceptions – primarily if the volunteer is under the influence, if their actions are criminal, or if they act without your approval – in most cases what they do will be your responsibility.

When things go wrong

All community activities involve a risk that something could go wrong.

You should try to anticipate and avoid these risks with a proper risk management plan (see Fast Facts - Risk Management).

But it is also vital to get appropriate insurance in case they do. Most community organisations should consider buying the following insurance:

Volunteer insurance (personal accident)

Volunteers are not usually covered under your WorkCover policy. This type of policy usually pays for compensation (and possibly damages) to volunteers if they have been injured in the course of their agreed volunteer work.

Public Liability insurance

Pays compensation for injury to third parties (people external to your organisation e.g. members of the public) or for damage to their property. This type of policy may not cover claims against the organisation by injured to volunteers – specific volunteer insurance may be required.

Professional Indemnity insurance

Applies to professional services or advice, for example health, counselling or legal services.

Covers compensation to third parties when the provision of such services is negligent, misleading or deceptive

Directors and Officers insurance

Covers compensation for wrongful acts committed intentionally or otherwise by the board or committee of management (and other 'officers'). Which of these you choose will depend on your activities, the risk of

an incident and your capacity to absorb costs when things go wrong. These factors will also influence how much you insure for. This can be hard to establish, but imagine paying the equivalent of an average salary for 30 years (if someone was injured and unable to work again).

You must ensure that your insurance covers what you need it to, where and when you need it. Read the fine print on exclusions as your extent of cover will depend on the specific terms of conditions of each policy.

Check that new activities are covered by your insurance and update your policy as necessary. Don't assume! You may need extra insurance in particular circumstances, for example if you own or lease property or cars. Age is a factor: many policies automatically cover volunteers between 18 and 75. If you work with people outside that range, discuss it with your insurer. Liability for corporate volunteers is complex: responsibility could sit with the employer or the community organisation depending how employee volunteering is managed within the company and the partnership arrangement.

If you are working within another organisation you should be insured by your hosts. But make sure you check that your program is included in the relevant policy.

Finally, if an incident occurs or a claim is made against you, you should notify your relevant insurer, as soon as possible.

More information

www.justiceconnect.org.au/our-programs/not-for-profit-law

www.volunteeringaustralia.org/resources/insurance/

www.vmia.vic.gov.au/insure/insurance-programs/community-service-organisations-program