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Formalisation – A Guide for Community Groups

What is Formalisation and Why Do It?

Many community groups, neighbourhood networks and sporting clubs start as simple "unincorporated associations" – a group of people working toward a common goal without any formal legal status. While this is easy and flexible, it comes with risks.

Formalisation is the process of registering your group with a government body, making it a legal entity.

Key Benefits of Formalisation

- **Limited Personal Liability:** This is the most crucial benefit. Once incorporated, the organisation itself is legally responsible for its debts and contracts, protecting individual members and committee members from personal financial risk.
- **Access to Funding:** Most major grant programs (government, corporate and philanthropic) require the applicant to be a formally incorporated body to be eligible for funding.
- **Perpetual Succession:** The organisation continues to exist even if members or office-bearers change, offering stability.
- **Ability to Contract:** The entity can legally enter into contracts in its own name (e.g. signing a lease, employing staff or buying property).
- **Increased Credibility:** Formal registration assures the public, sponsors and partners that your group operates under regulated governance standards.

Choosing Your Legal Structure

For a Victorian not-for-profit community group, the choice usually comes down to two main structures – the Incorporated Association and the Company Limited by Guarantee (CLG).



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Option 1: Incorporated Association (Inc.) (Governed by Consumer Affairs Victoria – CAV)

This is the most common and simplest choice for local groups, clubs and societies operating primarily within Victoria. It is regulated at the state level under the *Associations Incorporation Reform Act 2012 (Vic)*.

- **Key Requirement:** Must have a minimum of five members and must operate on a not-for-profit basis (profits must be reinvested back into the association's purpose, not distributed to members).
- **Registration Body:** Consumer Affairs Victoria (CAV).
- **Identifier:** The name must end with "Incorporated" or "Inc."

Option 2: Company Limited by Guarantee (CLG) (Governed by the Australian Securities and Investments Commission – ASIC)

This is a national legal structure. It is generally chosen by larger charities, peak bodies or organisations that plan to operate across multiple states or territories or those that have complex operations or high turnover.

- **Key Requirement:** The liability of members is limited to a nominal amount (the "guarantee") if the company is wound up. It is regulated under the *Corporations Act 2001 (Commonwealth)*.
- **Registration Body:** Australian Securities and Investments Commission (ASIC).
- **Identifier:** The name must end with "Limited" or "Ltd."



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Comparison of Legal Structures

Feature	Incorporated Association (Inc.)	Company Limited by Guarantee (Ltd.)
Governing Law	State-based (<i>Associations Incorporation Reform Act 2012 - Vic</i>)	National (<i>Corporations Act 2001 - Cth</i>)
Regulator	Consumer Affairs Victoria (CAV)	Australian Securities and Investments Commission (ASIC)
Complexity & Cost	Generally low setup cost and simpler ongoing compliance.	Higher setup cost and more complex, rigorous ongoing compliance.
Geographic Scope	Best suited for groups operating primarily within Victoria .	Best suited for groups operating nationally or with complex structures.
Member Liability	Limited liability for members and committee (provided rules are followed).	Limited liability for members and directors.
Governance Document	Rules or Constitution (Model Rules available).	Constitution (Replaceable Rules sometimes used).
Annual Reporting	Annual Statement and Financial Report lodged with CAV (requirements vary by turnover tier).	Annual Review lodged with ASIC; extensive financial reports required.



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Steps to Become an Incorporated Association (The Most Common Path)

If your group is in Victoria, becoming an Incorporated Association (Inc.) is often the simplest and most efficient route.

Step	Action Required	Details
Step 1	Check Eligibility	Ensure your group has at least five members and is not operating to distribute profit to its members.
Step 2	Choose and Reserve a Name	Select a unique name ending with "Incorporated" or "Inc." You must check the name is not already taken by another registered entity.
Step 3	Adopt a Constitution (Rules)	This is your governing document. You have two options: a) Adopt the free Model Rules provided by CAV/Justice Connect (easiest), or b) Draft your own rules (must meet all requirements of the Act).
Step 4	Hold a General Meeting	Give at least 21 days' notice to all members. The meeting must pass a special resolution to: 1) Approve the decision to incorporate; 2) Approve the proposed Rules/Constitution; and 3) Authorise at least one person (aged 18+) to lodge the application.
Step 5	Lodge Application with CAV	Submit the application, pay the fee and upload the approved Rules via the Consumer Affairs Victoria online portal (myCAV).
Step 6	Receive Certificate	Once approved, CAV will issue a Certificate of Incorporation. Your group is now a separate legal entity!
Step 7	Post-Incorporation & Banking	Open a new bank account in the <i>incorporated</i> name (e.g., "The Example Club Inc."), apply for an Australian Business Number (ABN), and register for GST if required. Contact Community Bank Buninyong on (03) 5341 8066 to make an appointment to discuss your specific community banking needs.



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Insurance and Risk Management

While formalisation protects individuals from liability, the organisation itself still needs protection. Insurance is a core component of good governance and risk management for any incorporated group.

Core Insurance Needs for NFPs

Most not-for-profit groups require a tailored insurance package that typically includes:

- **Public and Products Liability:** Essential cover for legal liability arising from third-party injury (e.g. a visitor tripping at a meeting) or property damage caused by your activities or products. Many venues require proof of this insurance before allowing bookings.
- **Association Liability (or Management Liability):** Covers the organisation and its committee members (Directors/Officers) against claims arising from 'wrongful acts' in managing the organisation (e.g. breach of duty, defamation, employment practice claims).
- **Property and Contents:** Covers loss or damage to your organisation's physical assets (e.g. equipment, buildings, furniture, electronics) due to fire, theft or natural events.

Volunteer Protection (Personal Accident)

In Australia, volunteers are generally not covered by Workers Compensation/WorkCover policies. Since the organisation is usually held liable for a volunteer's actions while performing approved duties (under the *Wrongs Act 1958 (Vic)*), Volunteer Personal Accident Insurance is crucial.

Feature	Details and Benefits
What it Covers	Accidental injury, disability, or death sustained by a volunteer while performing authorised duties or travelling directly to/from their volunteering role.
Financial Support	Provides weekly benefits (if the volunteer is unable to work in their normal job), lump sum payments, and compensation for out-of-pocket, non-Medicare



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	medical expenses (e.g., physiotherapy, dental work, ambulance costs or private hospital accommodation).
Benefit to the Organisation	Shows due diligence and care for your volunteers, which is important for retention and morale. It also helps manage the organisation's financial risk by covering injury costs that aren't otherwise covered by state schemes or Medicare.

Specialised NFP Insurers and Brokers

It is highly recommended to use an insurer or broker who specialises in the not-for-profit sector, as they understand the unique risks and package needs of community groups.

- Ansvar Insurance
- Community Underwriting
- Local Community Insurance Services (LCIS)
- Aon (NFP and Volunteering Australia programs)
- NFP Insurance Brokers

Should We Register for GST?

Determining whether your incorporated association or community group needs to register for Goods and Services Tax (GST) depends primarily on your GST Turnover.

1. **Mandatory Registration:** Your group must register for GST if your current or projected annual GST turnover is \$150,000 or more. You must do this within 21 days of exceeding this threshold.
2. **Voluntary Registration:** If your GST turnover is below \$150,000, registration is optional.

Key Consideration for Voluntary Registration: The main benefit of voluntary registration is the ability to claim GST credits (input tax credits) for the GST included in the price of goods and services your group purchases (e.g. equipment, venue hire). This can save your organisation 10% on these costs.



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However, if you register, you must then:

- Charge GST (10%) on your taxable sales (e.g. ticket sales, some sponsorships).
- Lodge regular Business Activity Statements (BAS) with the ATO, which increases administrative burden.

Note on Turnover: GST turnover generally includes sales of goods and services, but excludes gifts, donations and government funding that is not tied to a specific service or supply. Always calculate your GST turnover carefully and consult the ATO guidelines or a tax professional if you are approaching the threshold.

Early Steps for Informal Groups (Getting Started)

If your group is still in the "unincorporated" phase, here are three essential steps you can take today to build a strong governance foundation for the future:

1. **Draft a Simple Governance Document:** Even before adopting a formal Constitution, write down a set of basic rules of operation. Define your group's name, purpose, eligibility for membership, and how decisions are made (e.g. majority vote). This prevents future disputes and provides clarity.
2. **Maintain Clear Financial Separation:** Never mix group funds with personal money. If you cannot yet open a formal incorporated bank account, establish a separate bank account in the name of two or more office bearers and ensure all transactions are documented and receipted.
3. **Appoint Clear Roles and Responsibilities:** Formally nominate a small committee (e.g. Coordinator, Treasurer, Secretary) and document who is responsible for what. This helps avoid burnout and ensures critical tasks (like accounting and record-keeping) are assigned and completed.



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Resources

These organisations provide official and free resources to help Victorian community groups with the process.

Resource	Provided by	What It Offers
<u>Incorporated Association Registration</u>	Consumer Affairs Victoria (CAV)	The official body for registration. Provides all necessary forms, fee schedules and compliance guides via the myCAV portal.
<u>Model Rules Template</u>	Consumer Affairs Victoria (CAV)	The standard, pre-approved Model Rules for an Incorporated Association which you can adopt without modification (easiest method).
<u>Not-for-profit Rules Tool</u>	Justice Connect Not-for-profit Law	A free, simple, conversational web app that helps you generate a customized set of rules that comply with the Victorian Act if you don't want to use the standard Model Rules.
<u>Legal Structure Guidance</u>	Australian Charities and Not-for-profits Commission (ACNC)	Guidance on whether your formal entity can also register as a Charity (relevant for tax concessions).
<u>Governance and Compliance Guides</u>	Institute of Community Directors Australia (ICDA)	Comprehensive guides and articles on running an incorporated organisation effectively, including roles of the committee.
<u>ABN and Tax Information</u>	Australian Taxation Office (ATO)	Essential information on ABN registration, tax exemptions and Fringe Benefits Tax (FBT) for not-for-profits.
<u>GST for Not-for-profits</u>	Australian Taxation Office (ATO)	The official guide covering the \$150,000 threshold, voluntary registration and available GST concessions.

Disclaimer: This handout provides general information. Legal structures and compliance requirements are subject to change. It is strongly recommended that you seek independent professional legal and/or financial advice tailored to your group's specific circumstances before making a decision.