

## Our Community Organisations:

### **Do our organisations meet community expectations and comply with relevant laws?**

We are a fortunate immigrant community in Australia to have many Community organisations buzzing with a variety of recreational, social, sporting, religious and other activities. As a community we are very thankful to all organisers for catering to the community needs and doing a wonderful job of keeping us united and allowing us to enjoy the variety of things they undertake. I sincerely thank all concerned for their respective community supports.

However, on the same token we cannot gloss over some hard facts that depict a different picture of the health of our organisations in terms of internal governance and compliance with the laws. Some examples include conducting improper elections and not making financial records available to the community and paid members.

Non-commercial and non-profit social organisations are allowed to operate without registrations of any sort but most of our organisations are **'Incorporated Associations'** listed and registered with relevant State regulatory authority which for NSW is **Fair Trading**. The *incorporation* of an association limits liability of members for claims and negligence matters but it also imposes strict rules and regulations that are subject to monitoring by the regulatory authority and breaches may result in penalty, prosecution or cancellation of registration.

As a member of Bengali community we attend various activities of our associations and make financial contributions by purchasing entry tickets, operating stalls, etc. We know these organisations receive more funds from advertising sponsors, donations from Councils, State and Federal agencies under various headings.

But what is of concern is the apparent lack of transparency by our organisations towards management and use of **surplus funds**. None of the associations are known to have made their financial data publicly available to the community which directly and indirectly contribute to the generation of funds. More disturbing is the fact that the financial records are not even made available to executive members or paid members during annual general meetings as stipulated in *The Associations Incorporations Act 2009* which governs the conduct of such organisations.

This lapse of accountability and absence of transparency on the use of funds is a potential breeding ground for misappropriation of funds and other irregularities. We as recipients of these organisations should voice our concerns and expectations to the association leaders. The community print and electronic media should also take more meaningful and active role to raise community awareness on this matter.

Here is some information about incorporated associations including details of the roles and responsibilities of the members who run incorporated associations in NSW. The following sections are direct extracts from the NSW Fair Trading Website (<http://www.fairtrading.nsw.gov.au> ).

### About incorporated Associations

An incorporated association has its own legal identity separate from its members, providing protection to members in legal transactions.

An incorporated association can:

- enter into and enforce contracts, including the ability to hold, acquire and deal with property
- sue or be sued
- continue regardless of changes to membership.

While there are benefits to be gained from incorporation, there are also obligations. For example, incorporation requires the payment of application fees and requires the association to maintain proper financial and membership records and registers.

NSW Fair Trading's Registry of Co-operatives & Associations regulates incorporated associations registered under the *Associations Incorporation Act 2009*.

### Management of associations

An association must establish a committee to manage its affairs. The committee must include three or more members, over 18 years of age and at least three of whom reside in Australia. The public officer may be a member of the committee.

Members of the management committee must disclose any interest in a matter that conflicts with their ability to perform their duties. They must not use their position or information acquired as a committee member dishonestly.

A former committee member must ensure that all documents of the association in their possession are delivered to the public officer within 14 days of vacating office.

### Association's records

An association **must** keep the following records:

- a register of committee members, available for inspection by anyone
- a record of any committee member conflicts of interest, available for inspection by members
- a record of the association's financial transactions and position

- All minutes of the proceedings of committee and general meetings.

## Public officer

An association's committee must appoint a public officer who is over 18 years of age and a resident of New South Wales.

The public officer is, by virtue of that office, an authorised signatory for the association.

The committee must fill any vacancy in the office of public officer within 28 days of that vacancy and the new public officer must advise Fair Trading the details of the appointment within 28 days of taking office.

## Financial reporting

The *Associations Incorporation Act 2009* divides associations into two tiers for reporting purposes.

Larger, or **Tier 1** associations, whose gross receipts exceed \$250,000 or current assets exceed \$500,000 are required to submit audited financial statements each year to the members at the AGM.

Smaller, or **Tier 2** associations are required to submit a summary of their financial affairs to the AGM.

Associations must lodge **annual financial summaries** in the *approved form* with the Director-General within 1 month after the AGM.

## Comments

As explained above, there is no requirement for a **Tier 2** Association to conduct Audit of financial records. A summary of financial records is to be submitted to AGM and the Director General in approved form within 1 month after AGM.

## Annual general meetings

The associations annual general meeting (AGM) will take place within 6 months of the close of the association's financial year or within a timeframe allowed by the Director-General.

A newly incorporated association must hold its first annual general meeting within 18 months of registration.

Associations are required to submit their financial statements for the previous financial year to the annual general meeting. The nature of the financial statements submitted to the AGM must be in accordance with the category of association, either Tier 1 or Tier 2.

## **General obligations**

An association must not secure a monetary gain for its members. The association itself may make a profit, and it may use its profits to further the objects for which the association was established. Members may only receive legitimate payments for service from the association.

An association's full name (including the word 'Incorporated' or the abbreviation 'Inc') must appear in legible characters on any letter, statement, invoice, notice, publication including website, order for goods or services or receipt in connection with its activities.

If an association wishes to cancel its incorporation, the Director-General must approve any proposed distribution of surplus property.

A person must provide the Director-General with information or documents as requested concerning the affairs of an association.

## **Further Information**

1. Visit NSW Fair Trading website and following links in particular  
<http://www.fairtrading.nsw.gov.au>  
[http://www.fairtrading.nsw.gov.au/Cooperatives\\_and\\_associations/Running\\_an\\_association.html](http://www.fairtrading.nsw.gov.au/Cooperatives_and_associations/Running_an_association.html)  
[http://www.fairtrading.nsw.gov.au/Cooperatives\\_and\\_associations/About\\_associations.html](http://www.fairtrading.nsw.gov.au/Cooperatives_and_associations/About_associations.html)
2. Contact the Registry of Co-operatives & Associations  
Tel: 02 6333 1400  
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