Summary

The Victorian Government introduced legislation to protect volunteers from the risk of being personally sued, effective from 15 March 2003. The legislation recognises volunteers’ contribution to the community sector, including sport and recreation organisations, by providing them with legal safeguards.

The legislation means that a volunteer working for an incorporated community organisation cannot be held liable for anything done, or not done, in good faith in that role. This applies to volunteers working for incorporated sport and recreation organisations. Instead the community organisation will be liable to pay the compensation.

The protection offered by the legislation only applies where the volunteer acts within the scope of their allocated tasks. The protection will not apply where the volunteer’s ability to carry out the work properly was significantly impaired by drugs or alcohol or in defamation cases.

This important legislation means volunteers who are acting responsibly can carry out their important roles without concerns about being personally sued. However, it is advisable for your organisation to obtain independent legal advice to discuss the effects of the legislation.

The legislation does not affect the need for organisations to have public liability insurance.

For a full account of the provisions of the legislation please read the following section.

Detailed Provisions

In October 2002 the Wrongs and Other Acts (Public Liability Insurance Reform) Act 2002 was passed. This Act was part of the Victorian Government’s response to problems in the insurance sector and included provisions to protect volunteers from personal liability.

The provisions seek to strike a reasonable balance between the need to protect volunteers and the interests of those who suffer injury. This balance is achieved by providing that a volunteer cannot be held personally liable to pay compensation for anything done, or not done, in good faith by the volunteer while providing a service within the scope of community work organised by a community organisation. Instead the community organisation will be liable to pay the compensation.
### Key terms

**Community organisation** is defined as ensuring that volunteers who receive the protection of the legislation are undertaking work on behalf of a community organisation that is a body corporate.

A **volunteer** is an individual who provides a service in relation to community work on a voluntary basis. A person is considered to be a volunteer if they receive no remuneration or only some form of limited payment such as out-of-pocket expenses.

**Community work** includes any work that is done or to be done for:

- a religious, educational, charitable or benevolent purpose;
- the purpose of promoting or encouraging literature, science or the arts;
- the purpose of sport, recreation, tourism or amusement;
- the purpose of conserving or protecting the environment;
- the purpose of establishing, carrying on or improving a community, social or cultural centre;
- a political purpose;
- the purpose of promoting the common interests of the community generally or of a particular section of the community;
- any purpose specified in the regulations.

### When the protection does not apply

The legislation makes it clear that the protection offered by this legislation will not apply to a volunteer who knew or ought to have known that at the relevant time he or she was acting:

- outside the scope of the community work organised by the community organisation; or
- contrary to instructions given by the community organisation in relation to the providing of the service.

The protection will also not apply:

- where the volunteer’s ability to carry out the work properly was significantly impaired by drugs or alcohol; and
- in respect of any claim to recover damages for defamation.

### Further Information


Further information about the legislation can be obtained by contacting Legal Policy at the Department of Justice on telephone 9651 0726 or 9651 0751 or email: [Legal.Policy@justice.vic.gov.au](mailto:Legal.Policy@justice.vic.gov.au)