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Are you protected as a Volunteer?

In the late 1990's, the possible **liability** of sporting and community organisations and all of their "*helpers*" was a real concern. There were some extreme cases that sent justified shivers through the community. For instance, there was a case of an experienced basketball referee who was found liable for not warning a novice referee about the dangers of running backwards. Isn't that what basketball referees do all the time? There was another involving a claim against the referee for not blowing the whistle fast enough to stop a spear tackle. Hopefully, those individuals and their organisations were covered by insurance, but the principles of liability applied whether there was insurance or not.

An attempt was made to resolve the situation and protect organisations and their volunteers by the introduction of the **Civil Liability Act 2002**. However, there are some important gaps which mean some organisations and their helpers and volunteers will still be "*out there in the cold*".

A "*volunteer*" is defined as a person who does "*community work*" on a voluntary basis. What about the common situation where sporting referees are paid a small amount for their efforts?

The immunity also only applies where they are acting in "*good faith*". There have been some Court decisions which suggest that gross negligence and recklessness may be outside the concept of "*good faith*".

Also, "*community work*" is defined as work that is not for private financial gain and that is done for a charitable, benevolent, philanthropic, sporting, educational or cultural purpose, or which is included or excluded in the Regulations. A community organisation includes "*bodies corporate, church or other religious organisation and an authority of the state which organises volunteers to do community work*". What about the little group that is not "*incorporated*"! This might be a small sporting or recreational club or a community minded organisation, such as a progress association or a bush regeneration group. It would be wise to make certain they were "*incorporated*", such as under the Associations Incorporation Act.

It's interesting and surprising that the Associations Incorporation Act no longer makes it obligatory for such organisations to take out public liability insurance. Irrespective of what the law may provide, it is obviously desirable, if not imperative to ensure that any such organisation has adequate insurance to help both the organisation and also all of its helpers and volunteers.

Once again, life isn't as simple and straightforward as it seems.

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