AN EASY GUIDE TO BECOMING INCORPORATED

Step-by-step instruction for Support Groups looking to become incorporated

ConnectGroups

helping support groups & individuals

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What is incorporation?

Incorporation. It can sound a little daunting, but what does it actually mean? Becoming incorporated is registering with the government to become a formal 'legal entity' in return for accepting certain legal responsibilities. It allows the association to enter into contracts as an independent 'legal person' from its members, removing liability from individuals within the Support Group. It is voluntary, and Support Groups who become incorporated then have obligations to fulfil.

Myths about incorporation

"Only incorporated Support Groups can gain funding"

False! There are grants available for Support Groups that are not incorporated if you know where to look! To find whether a non-incorporated Support Group can apply check the grant's eligibility or restrictions. Here is a list of websites where your Support Group can search for grants where incorporation isn't needed.

"Support Groups need to be incorporated to be respected"

False! Incorporation does not increase the amount of respect that a Support Group is given. It is purely a registration process that allows for the Support Group to be its own 'legal person', that's all.

"I can't call government agencies if I get stuck with my application"

False! Agencies like the Australian Tax Office, Australian Charities and Not-for-profit commission, and Department of Mines, Industry Regulation and Safety are all there to help you. Waiting times to speak to a service representative are usually pretty short and representatives are there to answer your questions. Remember there is no such thing as a stupid question and if you aren't clear with anything at all, just give them a call!

"If I get the applications wrong they will just be rejected"

False! Don't let this fear stop you from submitting your application. If you do happen to get something incorrect, then the agency will usually reply in a timely manner with the reason for rejection and how you can resolve the issue. If you are worried about the best way to lodge an application check here for how and where to lodge all the applications you need!

Questions to consider before incorporating

Below are the key questions to consider in the process of submitting your application

1 Is our group eligible for incorporation?
According to the Associations Incorporation Act 2015 only certain groups are eligible to become incorporated.

2 Does our group want to become incorporated?
Incorporation has its benefits, but also comes with its own set of obligations and accountability which need to be considered before making the change

3 What will our group's incorporated name be?
Choose your groups name and check it's availability

4 What will be the rules of our group?
As an incorporated group you are required to have a constitution listing the rules of the group. These rules are to govern the day-to-day proceedings of the group.

5 Is our group happy with the decisions?
The group needs to have a meeting with recorded minutes detailing that members are happy with the decisions made.

6 Time to fill in the application!
Now you are ready to fill in the application. Make sure to check the list of other documentation you will need to be an incorporated group.

Deciding your Support Group's aims

A key point to raise with your Support Group before deciding whether to become incorporated is the aim of your association. Some key questions to consider are:

- What is your Support Group setting out to achieve?
- Who is your Support Group supporting?
- What kind of difference are you hoping to make?

These questions allow your members to have a clear idea of your Support Group's purpose, and make it easier to determine if you are suitable for incorporation. Here are examples of writing about a Support Group's charitable purpose to use as a guide when writing about your own.

Who is eligible?

To be eligible to become incorporated your Support Group needs to fit into these criteria:

- Be a not-for-profit organisation (this means that your Support Group can make a profit to promote your association's aim, but members cannot make a profit)
- Have 6 members who have voting rights under your rules
- Formed for one of the following reasons:
  - Religious, educational, charitable or benevolent purposes;
  - Encouraging literature, science or the arts;
  - Providing medical treatment/attention or promoting the interests of people who suffer from a particular disability/condition;
  - Sport, recreation or amusement purposes;
  - Promoting the interests of a local community;
  - Preserving heritage of the State;
  - Promoting the interests of students or staff of educational institutions;
  - Political purposes;
  - Promoting the common interests of persons in a particular business, trade or industry;
  - Any other purpose as approved by the Commissioner for Consumer Protection

If your Support Group does not fit in with these criteria, or is <u>for-profit</u>, you cannot become incorporated.

Advantages and disadvantages

It is important to consider the advantages and disadvantages if your Support Group is looking to become incorporated.

Advantages	Disadvantages
- Your Support Group becomes its own legal entity - Your Support Group can have ownership of property, enter into contracts and access loans - The Support Group is held liable for its activities, not individual members (to an extent) - Some grants and funding with incorporation as a requirement can become more accessible	- Your Support Group's flexibility will be reduced - Your financial records will no longer be private - There may be public scrutiny of the Support Group's activities - There are numerous fees associated with incorporation

• Your Support Group can exist independently of its members and continue on after original members have left	• Your Support Group will be legally required to comply with government regulations • Your Support Group will be required to keep accurate records of minutes and membership

Accountability

There will be a higher level of accountability if your Support Group becomes incorporated. Your Support Group's members will have responsibilities and more will be expected of them. Use the checklist below to see if your group is ready to become incorporated.

☐ Does your Support Group need to be a legal entity for contractual/financial/ownership purposes?

☐ Is your Support Group using funds solely for the promotion of its purpose?

☐ Do you have dedicated members who are willing to hold positions and meet regularly?

☐ Is your Support Group willing to forgo privacy, and have your actions scrutinised?

☐ Can your Support Group afford to have its accounts audited or find a pro bono auditor?
☐ Can your Support Group afford the fees that incorporating includes (both initial and ongoing)?

☐ Is your Support Group willing to maintain detailed and accurate records of membership and minutes?
☐ Is your Support Group willing to comply with government regulations and lose the flexibility of not being incorporated?

If you have checked all of these boxes you are ready to move on to the next step!

Getting started

Now it's time for you to begin your journey! Make sure your Support Group has already elected a Chair, Vice-Chair, Secretary, and Treasurer before you start, as these members will be crucial for the incorporation process. For information on some of the tasks associated with each of these office-bearer roles check here.

Allocating tasks

If you have decided to continue with your incorporation journey, you will need to hold a meeting with your Support Group to ensure the rest of your Support Group's members want to become incorporated. Ensure that all members at the meeting are aware of what incorporation requires of them.

Your Support Group will also need to allocate tasks to individual members or committees. Your Support Group will need to nominate:
- Person/s to complete and submit the application (Chair recommended)
- Person/s to draft the rules
- Person/s to record minutes and table meetings (Secretary recommended)

AssociationsOnline account

Before starting the process of incorporation, it is highly recommended that you create an AssociationsOnline account in order for you to lodge applications relating to the creation and maintenance of your incorporation. Using the AssociationsOnline portal is the easiest and most efficient way for your Support Group to keep records relating to your association and lodge applications. Lodging applications over the portal also reduces the price of applications by 20%, but we recommend calling the Department of Mines, Industry Regulation and Safety to confirm as this may be subject to change. For information on how to create and use an AssociationsOnline account, click here.

Choosing a name

Choosing the name for your incorporated association is a very important step. It will be the way that your association is recognisable and will give some indication of what your Support Group does. Some guidelines to follow when choosing a name are:
- Does your name reflect the purpose of your Support Group?

- Is it possible that your name could be easily confused with another group? If so think of a different name
- Have you included 'inc.' or 'incorporated' at the end of your Support Group's name?
- Does your name contain offensive words or profanities? If so change/remove these words

After deciding on a name, a good idea is to check the availability of the name. This can be done through submitting an *'Enquiry as to the availability of an association's name'* form through the AssociationsOnline portal. This form has no fee to submit and allows you to confirm that your decided name is available for use and conforms with the government's rules. The form also contains a list of commonly used 'undesirable' terms under **Section C** which you should try to <u>not</u> include in your association's name.

Creating a constitution

Your association is required to have a constitution, which is a document detailing the rules, obligations and format of your Support Group. There are 3 ways to create your association's constitution:

1. <u>Adopt</u> the 'Model Rules'
2. <u>Adapt</u> the 'Model Rules'
3. <u>Create</u> your own rules

Adopting the Model Rules

Adopting the model rules is the easiest and cheapest means of deciding your Support Group's constitution. It is a prescribed set of rules which comply with all the regulations set out in Schedule 1 of the *Associations Incorporation Act 2015* . All that is required for your Support Group to input for the commissioner is:

- The name of your association
- The purpose of your association
- Quorum for Committee Meetings (Percentage or number)
- Quorum for General Meetings (Percentage or number)
- Dates of the association's financial year

A quorum is the minimum number of members needed at a meeting to make the proceedings valid

It is recommended that you use these pre-made rules, so definitely check them out. A draft of the model rules can be found here.

Adapting the Model Rules

If you like the model rules, but would like to change or alter a few parts, adapting would be the best choice. It is more expensive than adopting the model rules, as any alteration is

classified as you making your 'own rules'. However, it may be worth the extra money for the flexibility that it allows.

<u>Creating your own Rules</u>

If you are creating your own rules, you will need to make sure that they comply with Schedule 1 of the *Incorporation Act* which can be found here. It is important that you include a not-for-profit clause in order to be able to be tax deductible. This method is also more expensive than adopting the model rules. The fees associated with rules can be found here.

Confirming the decisions

Now that these decisions have been made, it is very important for your Support Group to hold a meeting to formally confirm the choices. Your Support Group will need to record the minutes and keep a formal record of the meeting.

Creating an agenda

An agenda clarifies the purpose and reason for meeting, and provides a structure to make sure your meetings are the most efficient and effective that they can be. Having an agenda is very important to help make the minute taker's job easier, and also to clearly lay out for attendees what is going to occur. Agendas must be sent out to all members beforehand so that they can make an informed decision if they need to attend. Agendas need to be recorded and kept with minutes so that they can be referred to at any time.

Taking meeting minutes

Taking minutes of all your meetings is highly important for two reasons. Firstly, keeping accurate minutes provides your association with a clear record of all the decisions made and what was discussed. Secondly, it provides protection for those acting on the decisions and helps accountability if something should go wrong.

A key aspect of taking minutes is finding a format that suits your association's needs. First you need to nominate a member (usually the association's secretary) to take minutes, and then discuss with them how you want your minutes formatted. Next choose a template from the one's provided here (or create one of your own) to make sure meeting minutes are uniform and easy to understand. Talk to your minute taker about if they would prefer to do hand written notes or type them up. Here are some tips and tricks for them if they are not feeling confident or would like some guidance on how to take effective notes.

After the meeting minutes are written up make sure they get distributed to members for approval. Make sure copies of minutes are kept safe in one location to maintain records properly.

Completing the form

Finally! Now everything else has been sorted it's time for your Support Group to complete and submit the form to become incorporated. Make sure you keep a copy of **all** the documents you submit as Consumer Protection will not provide a final copy to you. Check here on how to lodge this application.

What if my application is rejected?

Firstly, don't panic! Rejection of an application may have occurred for a number of reasons, such as administrative errors, so rejection doesn't mean that your group won't be able to become incorporated. Usually the rejection will be joined with feedback on why it was rejected, and if not don't be afraid to call up and enquire.

If you have fixed all errors and still your Support Group's application has been rejected, and you would like to have this decision reviewed, there is a way to do that! You will need to submit an application to review the decision to the State Administrative Tribunal. It does incur a large fee however. You can find that form here.

Other important documents

So your application got approved! This isn't the end of your incorporation journey, however. There are many important documents that you need to make sure you have in order for your group to function efficiently and effectively. Make sure to read through this section carefully, as some documents you have to reapply for (even if you currently have them).

Your association's Tax File Number

A tax file number (TFN) is a personalised reference number for the tax system. Businesses can get TFNs the same as an individual can, and in order for your incorporation to function efficiently and legally it is important that your association has one. Even if your Support Group had a TFN before incorporation, you will still need to apply for a new one as you have

legally become a new entity. The application for a new TFN, however, is conveniently in the same form as the ABN, so you only need to fill one form for them both.

Your association's Australian Business Number

An Australian Business Number is a unique 11 digit number that identifies your business. It is an essential document in order for you to run your incorporated association effectively for tax purposes. As your association is now incorporated, you are classed as a new entity and that means even if your Support Group has previously had an ABN you will need to apply for a new one. Check here on how to lodge this application.

Your association's bank account

It may seem obvious, but it is <u>very</u> important that you make sure that your association has its own bank account. This makes auditing and other tax related activities much easier, and also means that you can comply with the regulations for an incorporated association. Think about who the signatories for the account will be, and what contingency plans you have if members are away.

All the major banks have business options, so it is up to you to choose which will work best. We recommend to go in and speak with someone if you are unsure of how to set up the account or would like further information on which account would be the most appropriate for your association.

Registering as a charity

Registering as a charity is an essential step for your Support Group to work as an efficient association. Registering with the Australian Commission for Not-for-profits and Charities allows you to receive charity tax concessions. The ACNC has also been designed to reduce the amount of bureaucracy that your association needs to endure, and provides support and helpful advice to help you maintain your regulatory obligations. Check here on how to lodge this application.

Getting Deductible Gift Recipient status

If you are looking to get your DGR status, this can be done through the ACNC portal. They have streamlined the process in order to make it easier for charities to get their status. All you need to do is give the ACNC permission to send your details to the ATO where they will assess your eligibility. Check here for what category of DGR status and tax exemptions your Support Group can claim.

Getting your WA Charitable Collections License

If you are looking to raise funds or collect any goods for your charity, you are required by law to have a WA Charitable Collections License under Section 6. To receive this license, you will need to have an auditor. Having an auditor is expensive so we suggest finding an auditor who will work pro-bono. Pro Bono Australia is a website that allows you to place advertisements for free for pro bono work. This application is quite lengthy and will require you to obtain multiple national police clearance and fill in Principle Executive Officer forms. Check here on how to lodge this application.

The 'Becoming Incorporated' checklist

☐ Make sure your Support Group has elected board members

☐ See if your Support Group is eligible for 'incorporation'

☐ Have a read through of your obligations if your Support Group becomes incorporated

☐ Assess if you have the resources and time to comply

☐ Check with your other members if they also wish to become incorporated

☐ Define your Support Group's purpose

☐ Allocate tasks to your board members

☐ Create an AssociationsOnline account

☐ Choose your Support Group's name

☐ Create a constitution

☐ Have a meeting to confirm all the choices your group has made

☐ Complete the application

☐ Complete the ABN form

☐ Create a business bank account

☐ Register as a charity with the ACNC

☐ Find an auditor

☐ Write a cover letter detailing details of the Support Group and if any other groups have a similar purpose

☐ Get police clearances for your board members

☐ Fill in Principle Executive Officer forms for each of your board members

☐ Get a WA Charitable Collections Licence

Resources

Links included in this document

Fees associated with rules	Associations Incorporation Act 2015
Schedule 1	Pro Bono Australia
Model rules draft	Types of DGR
Examples of charitable purpose	AssociationsOnline help

Helpful websites

ACNC website

Setting up your business banking

Charitable Tax Concessions

Taking minutes

https://www.youtube.com/watch?v=X8BkGpi_skQ

https://www.youtube.com/watch?v=QToMCbIgT7E

https://www.youtube.com/watch?v=IRsbRBu30T0

https://www.youtube.com/watch?v=1dFw-TNEx6M

Templates

ACNC minutes

ConnectGroups minutes

Agenda

Other Incorporation Resources

Chamber of Commerce incorporation guide

Grant resource websites

Name	Grants available	Free grants resources	Paid membership	Free Trial	Notes
Bankwest	6 ($1000)	No	No	N/A	Must be unincorporated to apply Grant recipient is voted on by the community
Dept. of Communities	100 +	Yes	No	N/A	May require auspicing
The Funding Centre	3000 +	Yes	$89/year	No	
Grill'd	1 ($500) per restaurant (have to be in the area)	No	No	N/A	Funding recipient is voted on by restaurant customers
Grants Guru	4000 +	Yes	$39/month	60 days	A limited directory search is available without registering
Grants Hub	1200 +	No	$19.95/month (15% discount for non-for-profits)	14 days	
Lotterywest	16	Yes	No	N/A	There are 16 categories of grants that can be applied for

Lodging application

Application for:	Best method of lodging	Alternative lodging	How to fill in the application
Incorporation	AssociationsOnline *Online form*	By post or in person *Word Document*	*Example* of the word document
ABN/TFN	ABR website *Online form*	N/A	*Example* of online form
WA Charitable Collections Licence	Email *Word format*	N/A	*Example* of form
Principle Executive Officer	*Printed form* that needs to be printed and scanned back in	N/A	*Example* of form
National Police Clearance	WA Police website *Online form*	At a post office	*Example* of online form
Registering a charity	ACNC website *Online form*	N/A	*Application checklist* *FAQs about registering*
Changing a charity's details	*Online* on the charity portal	N/A	*Accessing the charity portal*