

LEGAL ISSUES FOR COMMITTEES

EMPLOYERS AND BOARDS SHOULD BE FAMILIAR WITH

Employment Relations Act 2000
Minimum Wage Act 1983
Wages Protection Act 1983
Equal Pay Act 1972
Child Support Act 1991
Holidays Act 2003
Health and Safety in Employment Act 1992
Human Rights Act 1993
Privacy Act 1993
Parental Leave and Employment Protection Act 1987

HEALTH AND SAFETY IN EMPLOYMENT ACT 1992

Employers must take all practicable steps to ensure the safety of employees while at work by:

- providing and maintaining a safe working environment;
- providing and maintaining safety and health facilities;
- ensuring that employees are not exposed to hazards arising out of the arrangement, disposal, manipulation, organization, processing, storage, transport, working or use things either in the workplace itself, or near the workplace and under the employer's control; and
- developing procedures for dealing with any emergency which may arise.

PRIVACY ACT

Each organization must appoint an officer as a Privacy Commissioner. This person is responsible for keeping records safe whether in a database or filing cabinet.

Principle I provides that information may only be collected by an agency if it is collected for lawful purposes. Organizations should ask "Why do we ask this Question? What is the use we make of this information?" A Society will usually have a proper purpose in asking for a person's contact details for the purpose of collecting membership fees and for compiling a contact list. The range of information collected by a society will depend on its functions and activities. For instance, some service organizations may require sensitive information about individuals, so that they may perform their functions. A group providing assistance for people with physical disabilities will need to know what an individual's disability is, and what kind of assistance is needed, so that it can give appropriate help.

Principle 3 requires societies to take reasonable steps to ensure that the individual is aware of certain matters when information is collected directly from that person. These steps must be taken unless that is not practicable before the information is collected. These include:

- the fact that information is being collected; and the purpose for which the information is being collected;
- the intended recipients of the information;
- the name and address of the agency collecting and the agency holding the information;
- the consequences if any, of not providing the information;
- the rights of access to and correction of personal information.

Societies should make their information practices clear to the members. For instance, if a society uses circulated contact lists, members should be informed of this before they give their personal details. Societies should consider whether they will allow members the option of not being on this circulated list. If a form is used to collect details, it should include a box to be ticked if the individual agrees to have his or her details used for this list. Societies may also wish to pass the details to a regional or national body, or to publish them in a directory, and again this should be made clear. Members should be given the opportunity to keep their details private if this publication is not an essential aspect of membership.

In the Privacy Act, the full requirements concerning collection of personal information are set out in principles 1 to 4.

Use and disclosure - It may be desirable in some situations to disclose information about members, to other members of societies or even to outside organization. This is possible, provided that one of the exceptions contained in principle 11 permits the disclosure. One of those exceptions is that the person authorises the disclosure. There is no restriction on the use of information which was obtained before 1st July 1993. If you are disclosing information gathered prior to that date, you should however get permission from person involved.

MEMBERSHIP LISTS

If membership lists or directories are distributed to members, a notice should be included, that the information is to be used only in connection with club membership and may not be used for any other purpose such as direct marketing or for soliciting donations to other organisations.

MINUTES OF MEETING

If minutes contain information about an individual, the person concerned may view the information before publication.

ANNUAL ACCOUNTS

Salaries and wages earned by individuals cannot be listed in annual accounts without permission. The privacy commissioner suggests the best solution, is to advise the applicant that the salary/wage will be disclosed in the annual accounts.

Descriptions such as “manager” or “secretary” are often identifiable and would fit the category of personal information.

HUMAN RIGHTS ACT 1993

The following are grounds of discrimination:

- sex (including pregnancy and childbirth);
- marital status (including single, married, married but separated, divorced, widowed, or living in a relationship in the nature of marriage);
- religious belief or ethical belief, meaning lack of any religious belief, both in respect to a particular religion or religions or all religions;
- colour or race
- ethnic or national origins (including nationality and citizenship);
- disability, defined as physical disability or impairment, physical illness, psychiatric illness intellectual or psychological disability or impairment, any other loss or abnormality of psychological, physiological, or anatomical structure or function, reliance on a guide dog, wheelchair or other remedial means, and the presence in the body of organisms capable of causing illness;
- ages, meaning from age 16 to the date (in relation to employment) when the employee or prospective employee qualified for New Zealand superannuation (until 1 February 1999 when the upper age limit is removed);
- political opinion (including lack of a political opinion or any political opinion);
- employment status, meaning unemployed or being the recipient of a benefit or compensation under the Society Security Act 1964 or the Accident Rehabilitation and Compensation Insurance Act 1992;
- family status defined as having responsibility for part-time care of children or other dependents, being married to or living in a relationship in the nature of marriage with a particular person, or being the relative of a particular person;
- sexual orientation, meaning heterosexual, homosexual, lesbian or bisexual.

INSURANCE FOR AGENCIES

If agencies are apprehensive about possible difficulties and liabilities where their volunteers are concerned, it is suggested that they look at a range of insurance options which would provide them with protection. These options could be by means of:

- **Public Liability Insurance:** This indemnifies agencies against claims from injury, accidents or property damage and covers against claims from all persons other than employees. It should protect individual volunteers from claims from clients or the public and other agency members, either volunteers or employees.
- **Employers’ Liability Insurance:** This involves obtaining an extension on an existing policy to cover liability from claims from volunteers.
- **Personal Accident Insurance:** This is for volunteers. It provides payments for injuries or death in the course of work for the agency, thus providing protection where the accident rehabilitation and Compensation Insurance Act does not apply.

- **Professional Indemnity Insurance:** This applies where agencies offer advice to clients or members of the public and clients take action to recover resultant financial loss. To avoid liability, the agency would need to prove reasonable care was taken to give correct advice. This is an expensive insurance, the need for which would need to be balanced against perceived risk.

IMPORTANCE OF POLICIES

Policies are formed as a “commandment” for decision making. They should be subject to much consultation and discussion before implementation. Policies act as a safety-net for an organisation and should be a priority. Policies you may consider:

- **Complaints Procedure** - What avenues are available for staff, volunteers or clients to express concerns or lodge complaints?
- **Safety Policy** - (for staff visiting or being visited by clients)
- **Employment Policy** - acknowledge that the Treaty of Waitangi is New Zealand’s founding document, that the agency is an equal opportunity organisation.
- **Financial Management Policies** - Such as cheque signing
- **Dismissal Policy** - termination of employment
- **Conflict of Interest Policy** for Board Members

Your particular organisation may wish to introduce other specific policies.

TAXATION LIABILITIES

Apart from the normal PAYE, tax obligations organisations should remember, if your income (including grants) is over \$30,000.00, you must register for GST. To allow donations to your organisation, to be “tax deductible” you must obtain a certificate from IRD granting “charitable Status”, section 61 (25) of the Income Tax Act 1976.

RESOURCES GST for Non Profit Bodies (605A)
Inland Revenue publications

If you would like a list of our other community resources, or to be put on our mailing list, contact us at:



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