

SPORTING MATTERS

December 2014



New Associations Incorporation Legislation

Changes Affecting All Incorporated Associations in Western Australia

In September 2014, the long-awaited *Associations Incorporation Bill 2014 (WA)* (**Bill**) was introduced into parliament to repeal and replace the existing *Associations Incorporation Act 1987 (Act)* and is currently under consideration in the Legislative Assembly.

For those sporting clubs that are incorporated under the Act as incorporated associations (**association**), a working knowledge of the key changes introduced by the Bill is vital. Understanding the changes introduced by the Bill is particularly important for committee members and those involved in the administration or financial affairs of the association.

Key changes affecting the operation of sporting clubs that are associations:

Financial reporting: Introduction of a three-tiered system for financial reporting and auditing obligations of associations, depending on the relevant association's revenue in a financial year.

Protecting privacy: Stronger penalties for misuse of information on the register of members and inclusion of the ability for members to provide a contact email address instead of a physical address.

Committee members: The fiduciary duties of committee members to the association are now prescribed in the legislation.

Broad definition of 'officer': Use of a broad definition of 'officer' to include people who may influence decision making or the financial standing of the association and the imposition of obligations on an 'officer' of the association.

Trading: Removal of the restriction against an association from 'trading', provided that any profits are used to further the association's objectives and individual members do not profit from the trading activities.

Constitution and model rules: Introduction of additional requirements that must be covered in an association's governing document (often referred to as its constitution or rules). Model rules have been prepared to assist associations to prepare governing documents that comply with the requirements set out in the Bill.

Dispute resolution: Introduction of a requirement for associations to have internal dispute resolution procedures.

The Bill introduces additional and harsher penalties for non-compliance. If the Bill is passed, associations and their committee members and officers will need to ensure that they comply with all the changes introduced by the Bill. A transitional period is provided in the Bill for this purpose.

Next Steps

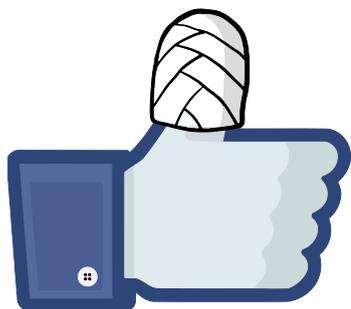
Whilst associations should be aware of the approaching changes, the actual effect of these changes and the steps required to be taken by associations cannot be confirmed until the Bill is passed. Associations are reminded to be aware of the upcoming changes and to act within the three year transitional period to ensure compliance with the requirements set out in the Bill.

Please contact us if you require further information regarding the Bill or its potential effect on your association.



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Social Media Usage: Is Your Sporting Club Protected?



Social media sites such as Facebook and Twitter have become the ultimate double-edged sword in sport: useful tools to generate publicity, but potentially hazardous if left unregulated. Sporting clubs should take proactive steps to protect their rights as employers by implementing express social media policies to ensure appropriate steps may be taken to discipline athletes, staff or members of the club for improper use of social media.

Social media accounts provide a unique means for athletes, staff or members to interact with the wider community. This has the potential to build better relationships between clubs and the public. However, there remains a risk that social media will be used to communicate messages that are improper, offensive or inconsistent with club values.

Clubs may need to discipline athletes, staff or members for improper use of personal social media accounts. In severe cases this may even lead to dismissal.

The absence of an express social media policy may restrict sporting clubs from taking certain action, including dismissal of athletes and staff or termination of membership for improper personal use of social media. The public reach of athletes and their clubs means the potential ramifications of failing to implement an express social media policy may be far greater in the context of sporting clubs compared to the ordinary employment context.

The following are some key things that all clubs need to consider:

- What type of social media policy, if any, does your club have and what restrictions have been imposed?
- Does your club have a policy to deal with bullying online?
- Does your club have a policy to deal with damaging statements about the sport or the club made by athletes, staff or members online?
- Does your club have an up-to-date register of athletes, staff and members?
- Are your athletes, staff and members aware of what behaviour constitutes inappropriate use of social media?
- What protocol is in place for identifying and responding to inappropriate conduct online?

We recommend sporting clubs institute social media policies to regulate personal use of social media by athletes, staff and members of the sporting club.

If you are concerned with the status of your club's social media policies, please contact us. We provide a range of services and can audit existing protocols and provide recommendations for the future.



Event Recap: Sporting Injuries and Issues for Clubs, Boards and Facility Ownership

Thank you to all those who attended our September breakfast seminar on Sporting Injuries and Issues for Clubs, Boards and Facility Ownership.

A special mention goes to our panel of speakers:

- Paul Tucker – senior physiotherapist, West Coast Eagles
- Scott Stevens – ex-AFL player, Adelaide Crows and Sydney Swans
- Sascha Hill – CEO, Sports Medicine Australia
- Fred Nance – partner, Squire Patton Boggs
- Bruno Di Girolami – partner, Squire Patton Boggs

Our speakers showcased their expertise and provided us with a rare insight into injuries in sport from their individual perspectives, particularly concussion and damage to brain function.

The key points that came out of the discussion were:

- Sporting clubs, medical staff and participants owe a duty of care to players, regardless of the level at which the sport is being played.
- A proactive approach to the regulation of player welfare through rule and equipment modifications is recommended to dispel club or facility liability with regard to player injuries.
- It is important to recognise head injuries, such as concussion, in a sports context and remove the stigma attached to concussion being a 'soft' injury.
- Scientific research is influencing sporting policy, including the implementation of action plans relating to 'removal from game' and 'return to play timelines'.
- It is likely that a positive trend in extensive analysis of player welfare at an elite level will progressively impact sporting codes down to the grassroots level.
- An overview of Sport Medicine Australia's Concussion in Sport Project.

For more information on the Concussion in Sport Project, see the [Project website](#).

We look forward to seeing you at our next event in early 2015!

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