



## THE PURPOSE OF THIS BROCHURE

This brochure helps you identify the key laws and regulations that affect your organisation and its activities, and how to comply with those laws. Many of these legal responsibilities also apply to volunteers working outside an organisational structure.

This brochure identifies the key laws and legal compliance issues that managers, employers and volunteers need to be aware of in the following areas:

- Employees, volunteers and contractors
- Health and safety
- Human rights
- Privacy
- Trading and other activities
- Intellectual property
- Civil and criminal liability
- Premises and environment

**Ignorance of the law is no defence to failing to comply with it. It's therefore important to identify the laws and regulations that apply to your organisation. You should also regularly review all your policies and procedures to make sure they take into account both changes to laws and regulations and changes in your organisation itself.**

### BROCHURE 1 This kit – What it's for and how to use it

This brochure introduces the purpose and structure of *Keeping It Legal E Ai Ki Te Ture* and explains how to use the kit. It includes an introductory checklist of questions that helps you review how well you know your organisation. The checklist then points you to the brochure that deals with each set of issues.

### BROCHURE 2 The legal form of your organisation

This brochure helps you to identify the legal form of your organisation and to understand the legal differences between each type. The brochure refers you to the fact sheets that explain how to set up each particular type of organisation (with branches or secondary structures as needed) and the administrative requirements the law imposes for each type.

### BROCHURE 3 Laws you need to know about – People, activities, premises and environment

This brochure helps you identify the key laws and regulations that affect your organisation and its activities, and how to comply with those laws. Many of these legal responsibilities also apply to volunteers working outside an organisational structure. The brochure refers you to fact sheets that explain the different laws relating to people, activities, premises and the environment.

### BROCHURE 4 Keeping on track – Compliance and insurance

This brochure provides guidelines for developing a compliance programme to meet your legal responsibilities. It also has information about using insurance appropriately to manage risks. The brochure refers you to a fact sheet that explains the different types of liability insurance policies.

PEOPLE INCLUDING STAFF, CLIENTS AND USERS	ACTIVITIES	PREMISES & ENVIRONMENT
<ul style="list-style-type: none"> <li>- EMPLOYMENT RELATIONS ACT</li> <li>- EQUAL PAY ACT</li> <li>- HEALTH AND SAFETY IN EMPLOYMENT ACT</li> <li>- HOLIDAYS ACT</li> <li>- IMMIGRATION ACT</li> <li>- MINIMUM WAGE ACT</li> <li>- WAGES PROTECTION ACT</li> <li>- CRIMINAL RECORDS (CLEAN SLATE) ACT</li> <li>- PARENTAL LEAVE AND EMPLOYMENT PROTECTION ACT</li> <li>- HUMAN RIGHTS ACT</li> <li>- PRIVACY ACT</li> <li>- HEALTH AND DISABILITY COMMISSIONER ACT</li> <li>- HEALTH AND DISABILITY SERVICES (SAFETY) ACT</li> </ul>	<ul style="list-style-type: none"> <li>- HEALTH AND DISABILITY COMMISSIONER ACT</li> <li>- HEALTH AND DISABILITY SERVICES (SAFETY) ACT</li> <li>- FAIR TRADING ACT</li> <li>- CONSUMER GUARANTEES ACT</li> <li>- COMMERCE ACT</li> <li>- CREDIT CONTRACTS AND CONSUMER FINANCE ACT</li> <li>- COPYRIGHT ACT</li> <li>- TRADE MARKS ACT</li> <li>- PATENTS ACT</li> <li>- GAMBLING ACT</li> <li>- CRIMES ACT</li> </ul>	<ul style="list-style-type: none"> <li>- BUILDING ACT</li> <li>- FIRE SERVICE ACT</li> <li>- HEALTH ACT</li> <li>- SMOKE-FREE ENVIRONMENTS ACT</li> <li>- RESOURCE MANAGEMENT ACT</li> </ul>

## PEOPLE: STAFF, VOLUNTEERS, CLIENTS AND USERS

Whether your organisation has employees, relies on volunteers or uses independent contractors, you must be aware of and comply with the relevant legal obligations and be aware of your potential liability for their actions. You should also have policies and procedures to deal with any aspect of their work for your organisation in a fair and consistent way.

### How well do you meet your obligations as an employer?

For detailed information, see:

– Fact sheet 9: People – Volunteers, employees and contractors.

If you employ staff, you have important obligations towards these employees under the Employment Relations Act 2000 (for example, the duty of “good faith”) and other employment-related Acts (for example, the Holidays Act 2003). You therefore need to be able to determine whether people doing work for you are in fact employees or whether they’re volunteers or independent contractors. This is an important distinction, as the obligations an organisation owes to each group are significantly different.

Answer the following questions to check how much you know about your duties and obligations as an employer and about how to distinguish employees from other workers. If you answer any of the questions with “No” or “Unsure”, make it a priority to find out the relevant information or take the necessary action as soon as possible.

	YES	NO/UNSURE	FACT SHEET	
> <b>Do you know which workers in your organisation are considered to be employees?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>	
> <b>Do you understand the differences between an employee and an independent contractor?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>	
> <b>Do you understand your potential liability for the actions of your employees?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>	
> <b>Do you understand your duties and obligations as an employer?</b>	<input type="radio"/>	<input type="radio"/>	<b>9, 10</b>	
> <b>Do you understand the obligation of employers, employees and unions to deal with each other in “good faith”?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>	
> <b>Do you understand the role of unions and their rights of access to the workplace?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>	
> <b>Do you have procedures or policies in place for:</b>				
	– checking whether new employees need any special licences or permits?	<input type="radio"/>	<input type="radio"/>	<b>9</b>
	– warning employees, disciplining employees and giving employees the chance to improve?	<input type="radio"/>	<input type="radio"/>	<b>9</b>
	– handling employment disputes, including personal grievances?	<input type="radio"/>	<input type="radio"/>	<b>9</b>
	– taking leave, including parental leave?	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>Do you understand the differences between independent employment agreements and collective employment agreements?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>	
> <b>Do you understand the processes relating to work-related injuries, such as ACC levies, rehabilitation and compensation?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>	
> <b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____				

## Do you understand your obligations to volunteers and contractors?

For detailed information, see:

– Fact sheet 9: People – Volunteers, employees and contractors.

It's important to understand and identify the legal status of workers who are not employees, and to understand the extent of your organisation's obligations to and potential liability for those workers.

Answer the following questions to check how much you know about the extent of your obligations and liability in relation to volunteers and independent contractors who work for your organisation. If you answer any of the questions with "No" or "Unsure", make it a priority to find out the relevant information or take the necessary action as soon as possible.

	YES	NO/UNSURE	FACT SHEET
> <b>Do you know which workers in your organisation are considered to be volunteers?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>Do you understand what obligations you owe to your volunteers?</b>	<input type="radio"/>	<input type="radio"/>	<b>9, 10</b>
> <b>Do you understand your potential liability for the actions of your volunteers?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>Have you checked whether any special licences or permits are required for your volunteers' roles?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>Do you know the rules governing reimbursement of volunteer expenses?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>Are you aware of the ACC entitlements of volunteers?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>Do you know which workers in your organisation are considered to be independent contractors?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>Do you understand what obligations you owe to your contractors?</b>	<input type="radio"/>	<input type="radio"/>	<b>9, 10</b>
> <b>Do you understand your potential liability for the actions of your contractors?</b>	<input type="radio"/>	<input type="radio"/>	<b>9</b>
> <b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____			

## How well do you manage health and safety?

For detailed information, see:

- Fact sheet 10: Health and safety.

Health and safety includes physical hazards as well as workplace stress. Legislation requires that you give all employees the opportunity to join in improving workplace health and safety, and good practice requires that you also give volunteers the same opportunity. This involves, among other things, managing hazards, training staff, and preparing for emergencies. Many of the legal responsibilities relating to health and safety apply also to volunteers working outside an organisational structure.

Ask yourself, your health and safety representatives and staff the following questions to see how you are going with health and safety in your workplace. If anyone answers any question with “No” or “Unsure”, make it a priority to find out the relevant information or take the necessary action as soon as possible.

	YES	NO/UNSURE	FACT SHEET
> <b>Do you do everything you reasonably can to ensure the health and safety of people who may be affected by your work (including customers and bystanders)?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you have an employee (and volunteer) participation system for health and safety, and do you discuss health and safety with your staff?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you and your staff manage hazards – that is, identify and record the hazards, decide which are significant, and take action to deal with them?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you regularly check that you have dealt with hazards effectively?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you and your staff check for hazards from new or changed equipment or procedures?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you tell contractors about hazards and find out what hazards they bring into your workplace?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you provide staff with adequate health and safety information and training, and supervise staff until they can work safely?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you have emergency procedures and equipment in place?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do you provide information about evacuation procedures to authorised visitors (and contractors) and warn them of any hazards they may come across?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>Do staff report incidents and injuries, and do you investigate and keep records of them?</b>	<input type="radio"/>	<input type="radio"/>	<b>10</b>
> <b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____			

## How well do you meet human rights obligations?

For detailed information, see:

- Fact sheet 11: Human rights and discrimination.

Human rights laws apply both to your staff and to those who use your services. They cover employment, use of places (including accommodation), access to educational services, and the provision of goods and services.

In addition, organisations that provide health services or work with people with disabilities must comply with the Code of Health and Disability Services Consumers' Rights and the Health and Disabilities Services (Safety) Act 2001.

Answer the following questions to check how much you know about your obligations regarding human rights. If you answer any of them with "No" or "Unsure", make it a priority to find out the relevant information or take the necessary action as soon as possible.

		YES	NO/UNSURE	FACT SHEET
>	<b>Are you and your staff aware of the prohibited grounds of discrimination in the following areas?</b>			<b>11</b>
	– employment	<input type="radio"/>	<input type="radio"/>	
	– access to places, vehicles and facilities	<input type="radio"/>	<input type="radio"/>	
	– provision of goods and services	<input type="radio"/>	<input type="radio"/>	
	– land, housing and other accommodation	<input type="radio"/>	<input type="radio"/>	
	– educational establishments	<input type="radio"/>	<input type="radio"/>	
>	<b>Do your policies state your obligations not to discriminate on these grounds?</b>			<b>11</b>
	– gender	<input type="radio"/>	<input type="radio"/>	
	– marital or family status	<input type="radio"/>	<input type="radio"/>	
	– religious or ethical belief	<input type="radio"/>	<input type="radio"/>	
	– colour, race, or ethnic or national origin	<input type="radio"/>	<input type="radio"/>	
	– physical or mental disability	<input type="radio"/>	<input type="radio"/>	
	– age	<input type="radio"/>	<input type="radio"/>	
	– political opinion	<input type="radio"/>	<input type="radio"/>	
	– employment status	<input type="radio"/>	<input type="radio"/>	
	– sexual orientation	<input type="radio"/>	<input type="radio"/>	
>	<b>If applicable, does your organisation comply with the Code of Health and Disability Services Consumers' Rights?</b>	<input type="radio"/>	<input type="radio"/>	<b>11</b>
>	<b>Do you have policies and procedures to facilitate the fair and efficient resolution of complaints?</b>	<input type="radio"/>	<input type="radio"/>	<b>11</b>
>	<b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____			



## ACTIVITIES

### Do you understand the laws relating to trading activities?

For detailed information, see:

- Fact sheet 14: Trading and other activities.

In the Fair Trading Act, the Consumer Guarantees Act and the Commerce Act, “to trade” means to engage in any activity relating to supplying or acquiring goods or services. This can involve activities such as:

- marketing and selling goods to the public to raise funds
- providing goods and services to members and employees
- selling a business or business assets to another person for use in trade
- providing endorsements for reward
- making statements or performing acts to preserve or enhance commercial interests
- tendering or submitting a proposal to provide goods and services.

Answer the following questions to check how much you know about your obligations in relation to trading. If you answer any of them with “No” or “Unsure”, make it a priority to find out the relevant information or take the necessary action as soon as possible.

	YES	NO/UNSURE	FACT SHEET
> <b>Does your organisation “trade” within the meaning of the Fair Trading Act and other consumer protection Acts?</b>	<input type="radio"/>	<input type="radio"/>	<b>14</b>
> <b>If your organisation “trades”, do you understand your obligations under:</b>			<b>14</b>
	– the Fair Trading Act?	<input type="radio"/>	
	– the Consumer Guarantees Act?	<input type="radio"/>	
	– the Commerce Act?	<input type="radio"/>	
> <b>Do you have policies and procedures in place for the repair, replacement or refund of faulty goods or services?</b>	<input type="radio"/>	<input type="radio"/>	<b>14</b>
> <b>Do you need to make any disclaimers or exclusions known to consumers?</b>	<input type="radio"/>	<input type="radio"/>	<b>14</b>
> <b>Does your organisation have any obligations under the Credit Contracts and Consumer Finance Act 2003?</b>	<input type="radio"/>	<input type="radio"/>	<b>14</b>
> <b>If your organisation “trades”, are you clear about your tax status?</b>	<input type="radio"/>	<input type="radio"/>	<b>14</b>
> <b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____			

### Other activities

For detailed information, see:

- Fact sheet 14: Trading and other activities.

You will need to obtain a licence for any lottery, prize competition and other gambling for community fundraising purposes if the prizes are more than a certain level. All games of housie must comply with the rules in the Gambling Act 2003.

You will also need to ensure that all people in your organisation who provide health or disability services are certified to do so under the Health and Disability Services (Safety) Act 2001.

Answer the following questions. If you answer "No" or "Unsure", make it a priority to find out the relevant information or take the necessary action as soon as possible.

	YES	NO/UNSURE	FACT SHEET
> <b>Do you have the necessary licence for any gaming activities (such as raffles or housie) that you may run?</b>	<input type="radio"/>	<input type="radio"/>	<b>14</b>
> <b>If you provide health and disability services, are you certified to provide those services?</b>	<input type="radio"/>	<input type="radio"/>	<b>14</b>
> <b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____			

### Do you understand the rights and obligations relating to intellectual property?

For detailed information, see:

- Fact sheet 15: Intellectual property.

If the work of your organisation generates any unique products or services, you may want to ensure that the organisation owns the intellectual property in those products or services. Your organisation must also ensure that it respects the intellectual property rights of others. Volunteers working outside an organisational structure should also be aware of intellectual property rights and obligations.

Answer the following questions to check how much you know about your rights and obligations in relation to intellectual property. If you answer any of them with "No" or "Unsure", make it a priority to find out the relevant information or take the necessary action as soon as possible.

	YES	NO/UNSURE	FACT SHEET
> <b>Does your organisation claim copyright in any of the following?</b>			
– literary, dramatic, musical or artistic works (including databases and computer programs)	<input type="radio"/>	<input type="radio"/>	<b>15</b>
– films, broadcasts or cable programmes	<input type="radio"/>	<input type="radio"/>	
– arrangements of published works (such as the arrangement of a newspaper)	<input type="radio"/>	<input type="radio"/>	
> <b>Have you considered whether you need to protect any names, signs, marks or inventions that your organisation uses?</b>	<input type="radio"/>	<input type="radio"/>	<b>15</b>
> <b>Do your contracts with independent contractors specify who owns the intellectual property in any publication or other work that is developed jointly or individually?</b>	<input type="radio"/>	<input type="radio"/>	<b>15</b>
> <b>Do you seek permission to use any material for which your organisation does not hold copyright?</b>	<input type="radio"/>	<input type="radio"/>	<b>15</b>
> <b>Does your organisation have licences for all the software it uses?</b>	<input type="radio"/>	<input type="radio"/>	<b>15</b>
> <b>Are your staff and members aware of what "passing off" is and its consequences?</b>	<input type="radio"/>	<input type="radio"/>	<b>15</b>
> <b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____			



**PREMISES AND ENVIRONMENT**

For detailed information, see:

- Fact sheet 13: Premises and environment.

Your premises and environment must be safe for people to work and be in and comply with any relevant statutory requirements. This means that, amongst other things, you must:

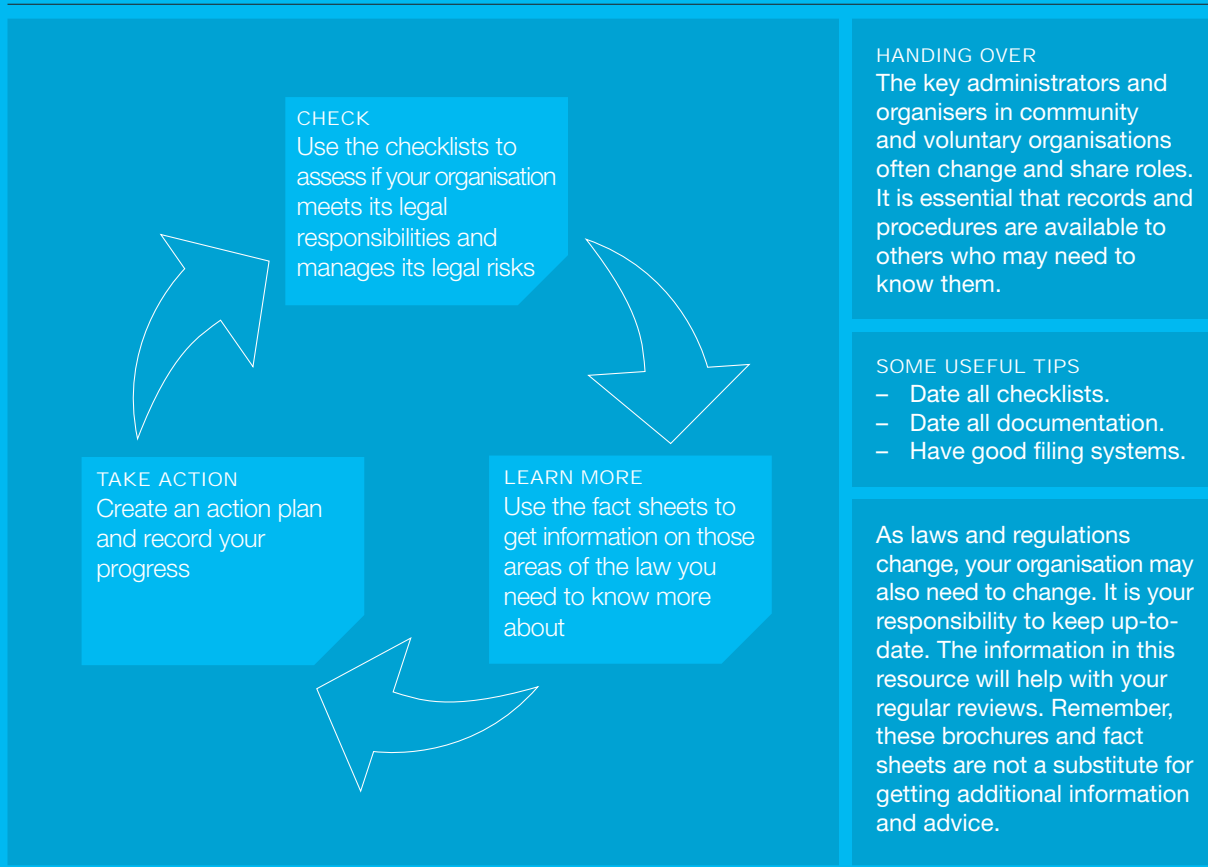
- provide access for all people
- meet and maintain physical standards and bylaws
- provide a smoke-free workplace
- obtain any licences or certificates required to be held under the law
- keep the premises clean and hygienic.

Answer the following questions to check how much you know about your obligations relating to your premises and environment. If you answer any of them with "No" or "Unsure", make it a priority to find out the relevant information or take the necessary action as soon as possible.

	YES	NO/UNSURE	FACT SHEET
> <b>Do your building compliance schedules specify procedures for inspections, maintenance and reporting?</b>	<input type="radio"/>	<input type="radio"/>	<b>13</b>
> <b>Do your premises have or provide:</b>			
- access for people with disabilities?	<input type="radio"/>	<input type="radio"/>	<b>13</b>
- a current building warrant of fitness?	<input type="radio"/>	<input type="radio"/>	
- a building consent for any building work?	<input type="radio"/>	<input type="radio"/>	
> <b>Have you and your staff ensured that your organisation:</b>			
- holds regular evacuation drills?	<input type="radio"/>	<input type="radio"/>	<b>13</b>
- provides adequate information, signs and notices about evacuation procedures?	<input type="radio"/>	<input type="radio"/>	
> <b>Does your organisation ensure that it maintains clean and safe premises?</b>	<input type="radio"/>	<input type="radio"/>	<b>13</b>
> <b>Do you understand your obligations in relation to smoke-free workplaces?</b>	<input type="radio"/>	<input type="radio"/>	<b>13</b>
> <b>Does your organisation need a resource consent for any of its activities?</b>	<input type="radio"/>	<input type="radio"/>	<b>13</b>
> <b>DATE COMPLETED</b> /    / <b>BY WHOM</b> _____			

**PREMISES AND ENVIRONMENT:  
WHAT DO YOU NEED TO WORK ON?**

	WHO	WHEN
		/ /
		/ /
		/ /
		/ /
		/ /
		/ /



## HANDS UP

The raised hand on the cover of *Keeping It Legal E Ai Ki Te Ture* symbolises the spirit of volunteers and the act of volunteering in New Zealand.

There is no such thing as a typical volunteer – volunteering is not limited by gender, ethnicity, age or interest. Instead, the single action that unifies volunteers is that they have put their hands up to offer their services, their time and themselves in a wide range of community settings. In doing so, they are extending a helping hand to meet a community need that may otherwise go unsupported.

At the same time, the raised hand symbolises that volunteers are also, perhaps unwittingly, accepting some accountability for their actions and for the organisation that they serve.



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New Zealand Federation  
of Voluntary Welfare Organisations



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& Voluntary Sector  
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To order a copy of *Keeping It Legal E Ai Ki Te Ture* email [ocvs@msd.govt.nz](mailto:ocvs@msd.govt.nz), phone 04 918 9555, or fax 04 913 3080.

**NOTE: Laws and regulations can change.**

**The most up-to-date version of this information is on [www.keepingitlegal.net.nz](http://www.keepingitlegal.net.nz).**