

E AI KI TE TURE

# keeping it legal

LEGAL RESPONSIBILITIES OF VOLUNTARY ORGANISATIONS IN NEW ZEALAND

## 4 KEEPING ON TRACK - COMPLIANCE AND INSURANCE



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## THE PURPOSE OF THIS BROCHURE

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.

**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 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.

## COMPLIANCE PROGRAMMES

A compliance programme is an organisation-wide set of structures and procedures designed to ensure that your organisation complies with its legal obligations. It's far better to invest in developing a compliance programme than to be prosecuted for failing to follow the law or sued for damages in a civil claim.

No single formula for a compliance programme will suit all organisations. However, some key elements that should be addressed in all compliance programmes include:

- management commitment
- division of responsibility
- staff education and training
- a complaints-handling procedure
- monitoring systems and record keeping
- regular reviews
- risk-management programmes.

### The risks if you don't have a compliance programme

Not only will a compliance programme help avoid any breaches of your legal obligations, having one will also make it less likely that you will be held responsible for any breaches that do occur. When deciding to prosecute, regulatory agencies will take into account the steps an organisation has taken to ensure compliance. Similarly, the Courts will also consider any steps taken to ensure compliance when imposing penalties:

*...if the employer has done everything reasonably required of him to avert... misconduct on the part of [his employees] then, so far as the employer is concerned, his culpability in respect of the event would be technical and not reprehensible. A penalty imposed in such a case would reflect this. (A judge in a Fair Trading Act case)*

The risk of fines, civil damages and compliance costs are not the only disadvantages if your organisation is prosecuted or sued. Legal costs, negative publicity, disclosure of sensitive information and general disruption to your organisation are also part of criminal and civil litigation.

Answer the following questions to check what arrangements your organisation has put in place to ensure it complies with the law. If you answer any of the questions with "No" or "Unsure", make it a priority to find out more or take the necessary action as soon as possible. You can find out more information about these issues from a range of resources, including [www.community.net.nz](http://www.community.net.nz).

		YES	NO OR UNSURE
>	<b>Management commitment</b>		
	– Do you have a policy statement outlining your commitment to compliance with the law in all your activities?	<input type="radio"/>	<input type="radio"/>
	– Do you have written policies and procedures for maintaining your legal responsibilities?	<input type="radio"/>	<input type="radio"/>
>	<b>Division of responsibility</b>		
	– Have you identified all areas in which you have legal responsibilities?	<input type="radio"/>	<input type="radio"/>
	– Are managers and supervisors aware of these responsibilities?	<input type="radio"/>	<input type="radio"/>
>	<b>Staff education and training</b>		
	– Are your legal responsibilities covered in your induction and training programme for all staff and volunteers?	<input type="radio"/>	<input type="radio"/>
	– Do you provide for continuing education or circulate updates of legal responsibilities?	<input type="radio"/>	<input type="radio"/>
>	<b>Complaints handling procedure</b>		
	– Do you have a written complaints policy?	<input type="radio"/>	<input type="radio"/>
	– Do you keep records of complaints and actions?	<input type="radio"/>	<input type="radio"/>
	– Does the procedure comply with the requirements of natural justice?	<input type="radio"/>	<input type="radio"/>
>	<b>Monitoring system and record keeping</b>		
	– Do you carry out checks for any new legislation that may affect your organisation?	<input type="radio"/>	<input type="radio"/>
>	<b>Regular reviews</b>		
	– Do you regularly review whether you are meeting your legal responsibilities?	<input type="radio"/>	<input type="radio"/>

**COMPLIANCE PROGRAMMES:  
WHAT DO YOU NEED TO WORK ON?**

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## INSURANCE

Insurance safeguards your organisation against the financial costs of breaches of legal obligations. Various types of insurance are available from different insurers. However, while insurance is a valuable risk management tool, it must be seen as a safety net rather than the first line of protection.

Insurance protection is available for many of the issues covered in *Keeping It Legal E Ai Ki Te Ture*, such as:

- damage to the person or property of others (Public liability policy)
- wrongful acts in operating an organisation (Directors, officers and trustees liability policy)
- negligent advice or service (Professional indemnity policy)
- employment disputes (Employment practices policy)
- products supplied by your organisation causing loss (Products liability policy)
- employee injury (Employers liability policy)
- breach of statutory liabilities (Statutory liability policy).

Insurance policies normally include a condition requiring the insured person or organisation to act responsibly in the conduct of their business. A policy may specifically state that claims will not be accepted if the insured has deliberately disregarded the law.

In arranging insurance you should:

- check with a reputable insurance broker about available cover
- obtain other quotes for the same products
- ensure that you clearly understand a policy before you take it out.

### Understanding your insurance

For detailed information, see:

- *Fact sheet 17: Insurance as a risk management tool.*

Answer the following questions to check your understanding of your organisation's current insurance cover. If you answer any of the questions with "No" or "Unsure", make it a priority to find out more or take the necessary action as soon as possible.

	YES	NO OR UNSURE	FACT SHEET
> <b>Do you know what types of insurance you have?</b>	<input type="radio"/>	<input type="radio"/>	<b>17</b>
> <b>Have you recently reviewed your insurance to ensure it still meets your needs?</b>	<input type="radio"/>	<input type="radio"/>	<b>17</b>
> <b>Have you had independent advice on what is available?</b>	<input type="radio"/>	<input type="radio"/>	<b>17</b>
> <b>Is your organisation aware of any relevant exclusion clauses in your insurance policies?</b>	<input type="radio"/>	<input type="radio"/>	<b>17</b>

### INSURANCE:

#### WHAT DO YOU NEED TO WORK ON?

	WHO	WHEN
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- SOME USEFUL TIPS**
- Date all checklists.
  - Date all documentation.
  - Have good filing systems.

As laws and regulations change, your organisation may also need to change. It is your responsibility to keep up-to-date. The information in this resource will help with your regular reviews. Remember, these brochures and fact sheets are not a substitute for getting additional information and advice.

## 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.<sup>9</sup>

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.



<sup>9</sup> Joint Copyright

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New Zealand Federation  
of Voluntary Welfare Organisations



Office for the Community  
& Voluntary Sector  
Tari mō te Rāngai ā-Hapori, ā-Tūao  
Administered by the Ministry of Social Development

ISBN 0-478-18346-1

June 2006 *Keeping It Legal E Ai Ki Te Ture*

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).**