

# SUMMARY OF LIONS LEGAL ISSUES

by MD 202 Legal Counsel, Alan Knowsley

Set out below are some of the frequently arising legal issues facing Lions and dealt with by your District and Multiple District Legal Counsel. This is a summary only and is not a substitute for legal advice on individual matters from your District or Multiple District Legal Counsel. If in doubt, consult them!

## 1. Privacy Policy:

Your personal information received by us will be stored by Lions at the various levels of Lions from Club to International. Lions will take care to protect your information from unauthorised access.

Lions will not divulge or use information except for the purpose for which it was collected which includes for Club, Zone, Region, District, Multiple District, Constitutional Area and International Lions Clubs purposes and in accordance with normal legal requirements and practices. This may include publishing information on the Lions websites for Lions purposes.

You have the right to access information about yourself and to request the correction of any information you do not consider to be correct.

Information listed within the Multiple District Directory is confidential and for the use of Lions Clubs members exclusively. Under no circumstances should it be used by members for commercial purposes, nor should they allow its use by others. The information on a Lions Member held by MD202 is usually held at the Multiple District office and can be viewed by that Lions Member by contacting the **MD Secretary**. If the information is incorrect that Lion may request its correction. Information is usually collected direct from a Lions Member and is for the purposes of the International Association of Lions Clubs at Club, Zone, District, Multiple District and International levels.

For any additional information please contact the MD Office.

## 2. Conflicts of Interest Policy:

It is important that all decisions are not only free from self-interest but also appear that way to all involved in the process or scrutinising from outside.

If you or a family member or associate have an interest in the matter then this may give rise to a conflict of interest. If such a conflict exists or may exist in more than a minimal way you should disclose the conflict and not take part in any decision-making relating to the matter.

In general you should also not be present when the matter is being discussed but should usually have the ability to present your position to the decision makers (if appropriate to the circumstances) before withdrawing to allow discussion and voting to take place.

If there is any doubt you should declare the conflict and remove yourself from the process.

## 3. REMITS

Remits to District Conventions should reach the Cabinet Secretary prior to the date set by the District Governor - usually 60 days prior to the convention. Remits should be checked with your District Legal Counsel to ensure proper wording and that any constitutional issues are taken into account before the remit is sent out to clubs to consider.

Cabinet secretaries should also provide all proposed remits to Multiple District Legal Counsel as far in advance of the convention as possible. This helps prevent remits falling over on technicalities.

Remits on non-constitutional matters require a simple majority (more than 50%). Constitutional remits require a 2/3rds majority. Proposed Multiple District projects require a simple majority at District Convention but 75% at the Multiple District Convention. District projects require a 75% majority.

Proposals to make representations to the government of the day require a 2/3rds majority.

Clubs are entitled to one delegate for each 10 members or major fraction thereof (5 or more). Club numbers are shown by Lions International records on the 1st day of the month prior to the convention.

#### **4. INCORPORATION**

It is recommended that all clubs be incorporated under the Incorporated Societies Act. This confers protection to members from liabilities of the club eg contracts, debts, fines. 15 members are needed and they must pass a resolution to incorporate. Forms are available from The Registrar of Incorporated Societies. Your District Legal Counsel can assist with this process if required.

If a club fails to comply with the requirements to file annual returns this can result in the club being struck off and having to re-register. Annual returns should be accompanied by a certificate from a Board member that the accounts have been approved by members at a general meeting.

Clubs need to notify changes of registered office (so as to ensure they receive all correspondence) and any changes in the constitution also need to be filed along with copies of the resolutions adopting the new constitution.

#### **5. WINDING UP**

This is a complicated process similar to a liquidation. If a club does wish to wind up then the District Legal Counsel should be asked to assist. The club must first pass a resolution appointing a liquidator. Then notify all club members in writing of another meeting where a vote will be taken to confirm/or otherwise the winding up. This second vote must be held at least 30 days after the first meeting.

If you are thinking of winding up then it is requested that you let your District Governor know as soon as possible and before any concrete decisions are taken.

#### **6. LIQUOR LICENSING**

The laws on the sale and supply of alcohol affect all Lions Clubs who provide alcohol to members, guests or the public. If you wish to provide alcohol for Lions meetings or functions for members and guests where a charge, donation or club fees are paid then you will need a licence.

[For details, click here](#)

#### **7. PRIVACY ACT**

This Act sets limits and duties on the collection, storage and use of personal information. The Act is quite technical but there are some main principles.

(1) Get permission to use the collected information for the purposes you need it for.

- (2) Do not use the information for other purposes.
- (3) Get rid of the information once the purpose for which it was collected has ended.
- (4) People are entitled to see information about themselves and to request correction. If you do not agree to correct the information you must mark the information showing that a correction has been requested and what it was.
- (5) Take care that information cannot be accessed by unauthorised persons.

## **8. HEALTH & SAFETY**

The need for care to ensure Health & Safety is obvious. It does not just apply to the employment situation.

The Health & Safety at Work Act provides duties on persons conducting a business or undertaking (PCBU) employers, persons in control of places or plant, officers of the PCBU, self-employed, principals (eg hirer of a contractor), employees and visitors. Lions can be more than one of these at a time.

Volunteers who do work for another on a regularly on an on-going basis and the work is an integral part of the business of the other person are covered by the legislation. However, volunteers doing a fundraising activity (amongst other things) are excluded. Even though volunteers are exempt in certain circumstances from the Health and Safety legislation the Crimes Act imposes duties to take care of everyone.

You must take all practicable steps to identify then eliminate, or minimise hazards. This must be regularly reviewed. Keep written records of this process as proof that it was properly carried out. All practicable steps now depends on the circumstances including the nature and severity of the harm, the current state of knowledge of the harm and its avoidance and the availability and cost of avoidance. Harm now includes mental as well as physical and covers stress from work hazards.

The Health & Safety at Work Act provides penalties of five years in prison and \$300,000 maximum fines for individuals or \$3million for a corporate entity. The only defence is a total absence of fault.

If your activities are covered by the Act you must:

- Keep a register of all incidents where a person was or might have been harmed.
- Report serious harm to WorkSafe immediately and in writing within seven days
- Do not disturb the accident scene (except for safety reasons) if serious harm occurs.
- Provide employees with an opportunity to have input into your safety plan.

It is now unlawful to be indemnified or insured against fines and penalties under the Act.

An easy to follow Lions Safety Action Plan has been prepared for Distribution to clubs and is available on the web along with a manual for H&S in a club. Even if you are not covered by the Act still take all care to identify and eliminate hazards so no one is hurt during your Lions activities. Your planning must be up to scratch when conducting fundraising and other events.

Make sure each event has a Safety Officer and that proper safety planning is actually done. Record what you do.

## **9. CHARITIES**

Charities are supervised by the Internal Affairs Department (Charities Services). Remember that your club charity must keep minutes of meetings and decisions and file annual returns. You can check out if your charity is still registered and up to date with all of its filing requirements at <https://register.charities.govt.nz/CharitiesRegister/Search>

### **Single Charitable Entity or Incorporated Club plus Registered Charity**

An issue arose over the year about whether it was better for Lions to register their Lions Club as a charity (single entity) or to continue with both an incorporated Lions Club and a separate Charity for the club (2 entities). To do this clubs needed to change their constitutions to comply with the Charities Services requirements. Lions International were asked if they would approve the proposed changes to club constitutions and they advised that they would not approve those changes. This means that to comply with the International Constitution a club should have a separate charitable entity and not combine the club with a charity in a single entity.

If your club only has a single entity then you need to set up a separate charity. Once that is done you need to amend your club constitution back to that approved by Lions International and then deregister the club as a charity (keeping the Club as an Incorporated Society and the new Charity set up). Instructions and guidance on these steps is on the Lions Website. <http://www.lionsclubs.org.nz/clubs/resources-for-clubs/our-legal-obligations/charities-commission-and-tax-on-project-funds> District Legal Counsel can assist with the process. If you need help then contact them or me if required.

## **10. SUMMARY**

If in doubt on any issue consult your District Legal Counsel on District issues and Multiple District Counsel on MD matters.

**[Charity Services and Tax on Project Funds](#)**