

chapter seven

legal issues



Understanding your responsibilities under law is an essential part of effective event management. Organising an event involves taking care of a variety of legal issues. At the outset you need to define the legal responsibilities associated with running your particular event, and if they can be delivered within the available timescales.

This section does not aim to provide specific legal advice. It is meant as an initial guide to prompt your thinking and action. You need to be aware of potential liabilities and we suggest that you take legal advice as appropriate.

Areas you should consider as a minimum include:

- ▶ Organisational Structure and Legal Status
- ▶ Event Ownership
- ▶ Contracts & Agreements
- ▶ Licences and Permissions
- ▶ Disability Issues
- ▶ Equal Opportunities
- ▶ Data Protection
- ▶ Insurance (see Chapter 8)

Organisational Structure and Legal Status

Events are delivered through a variety of organisational structures, each with different legal status. Below are listed a few of the available options:

Unincorporated Association

Setting up this kind of organisation is relatively straightforward. It usually involves an arrangement between members whereby a committee is formed and the organisation

is run under a simple constitution (see below). Events operated by community groups or sports and arts associations often operate in this way. However, as the organisation does not have any separate legal identity from its members it is worth bearing in mind the potential pitfalls when organising events through this model. For example, the committee members have unlimited joint personal liability for any debts or actions that the organisation may have raised against it. This could threaten members' personal assets should something go badly wrong with the event. These kinds of organisations often find it difficult to attract active and committed membership which can generate a sense of insecurity. For all of the above reasons unincorporated associations may find it more difficult to attract funding from third parties. This kind of organisation should only deliver events involving a very limited risk.

The Constitution: To provide clarity of purpose and direction it is advisable that unincorporated organisations draw up an agreed written constitution outlining what the organisation does and how it is managed. This can be a relatively simple statement of purpose, written in plain English and covering the following areas:

- ▶ The name the organisation trades under
- ▶ The aims of the organisation
- ▶ The means by which these aims can be achieved
- ▶ Eligibility for membership
- ▶ Committee selection and period of service
- ▶ Procedure for resignation and expulsion of members
- ▶ Office bearers' functions and duties
- ▶ Procedures for financial management
- ▶ Timing of meetings
- ▶ Procedure if things go wrong or if the organisation ceases to operate

Sole Trader

This is a business run by one individual for their personal interest or benefit. It is very simple to start trading in this way. You can set up a bank account in your name or you can 'trade as' the name of the event. Be aware that any debts and liabilities will be yours alone and you may also find it difficult to raise public funds.

Parent Organisation

Some events are run through an existing, larger organisation. The members of the parent organisation take on the responsibility for the event with no need to set up a new, independent organisation. In this kind of scenario it is recommended that a separate accounts 'department' is created for the recording of financial activity associated with the event. This is in order that the income and expenditure specifically related to that event can be shown independently of the parent organisation's accounts. If applying for public funding for the event, this is usually required for reasons of transparency.

Limited Company

If your event involves reasonable financial risks, it may be appropriate to set up a Limited Company. This kind of organisation has a separate legal identity from its members and can, for example, receive money, enter into contracts and be sued in its own right. A limited company has named directors whose financial liability is either limited by guarantee (usually a nominal sum of £1) or by shares (the level of share capital committed by the directors). Setting up this kind of organisation involves additional costs and time in order to comply with Company Law (e.g. formal annual accounts, company returns, etc) but it is likely to be worth it if yours is an event of reasonable size. Companies are registered through Companies House. To register you must submit your constitution in the form of a Memorandum and Articles of Association, supply details of directors, company secretary and members and have a registered office. Although it is advised that you seek the advice of a lawyer and accountant when setting up your company, it is not always essential. For information on how to form a company visit www.companieshouse.gov.uk

Charitable Status

Organisations with charitable purposes can apply for charitable status. Benefits include tax advantages and the ability to receive donations from charitable trusts. Although there is no cut and dried definition of what defines a charitable purpose under Scots Law, organisations whose activities deliver a clear educational or social benefit to the public may qualify. For information on seeking charitable status visit www.inlandrevenue.gov.uk/charities and www.oscr.org.uk (The Office of the Scottish Charity Regulator).

Event Ownership

At the outset you must establish who actually owns the event and therefore has the various rights and liabilities associated with it. Clarify if you have the right to enter into any contracts with third parties on behalf of the event. Please note, EventScotland and other funders are unlikely to enter into a funding relationship with anyone other than the event owner.

Sanctioning

In some cases it may be necessary to receive formal or legal permission from a governing or nominated sanctioning body of a given sport or activity in order to host or manage an event. This permission may be termed 'sanctioning' and it is usually required for any national and international sporting event that is held under specific international rules.

The purpose of sanctioning an event is to ensure that it is delivered to a standard agreed with the governing body. In return for sanctioning the event is usually required to provide financial return to the sanctioning body – either a lump sum and/or a **capitation** fee.

Sanction provides the legal authority to run/host an event. It may also provide additional benefits to the event organiser such as access to:

- ▶ Public liability insurance cover
- ▶ Use of Internationally recognised logos
- ▶ Marketing support *i.e.* inclusion of your event in calendars
- ▶ Qualified officials and volunteers
- ▶ Sport specific expertise

If you are considering organising a sporting event it is advisable to contact the national governing body for that particular sport. An up-to-date list of these is available from **sportscotland** www.sportscotland.org.uk

Copyright

If you are commissioning any creative work as part of the event, for example a new show, photography, print design, website, etc ensure that you agree in writing the rights to any future use. UK Copyright Legislation sets out various rules for determining the author of any type of copyright work. Generally the person with copyright is the person who creates the work, but it is not always straightforward. If you are intending to reproduce in any form a copyright work, make sure you get proper clearance. For guidance visit www.opsi.gov.uk or www.businesslink.gov.uk

Contracts & Agreements

Organising an event involves making a whole range of agreements with a number of organisations and individuals including funders, sponsors, venues, suppliers, performers, staff and volunteers. It is essential that you put all agreements in writing thus ensuring that each party understands exactly what is expected of them. The agreements you make are likely to range from quite substantial formal contracts between the key event partners to purchase orders with suppliers.

Agreements with Key Partners

At the outset establish who the key partners are and what they expect from their involvement in the event. Ensure that you have a written contract with each outlining what is to be delivered on both sides. If your event is publicly funded, it is likely that funding bodies will issue you with their standard contract tailored towards the event. Ensure that you read and understand all contracts fully before signing. Non fulfilment of the terms of a contract is likely to result in withdrawal or non-payment of funds.

Issuing Your Own Contracts

Not everyone will issue you with a contract. You may require to issue your own on behalf of the organisation, for example to engage performers or confirm sponsorships. Don't be scared off by the term 'contract'. A contract is simply a written agreement that both parties sign. The scope of this guide cannot offer specific legal advice and our guidance should not be taken as such, however bear the following in mind when formalising any agreements:

- ▶ Keep it simple, there is no need to write in legalese
- ▶ Always include the full contact details of both parties and name a representative for each
- ▶ Ensure that the signatories have the power to sign on behalf of their respective organisations
- ▶ Date the contract and state a return date as appropriate
- ▶ Include full and clear details of what you expect to receive
- ▶ Include full details of what you will provide
- ▶ Include specific detail of the financial agreement and remember to be clear if VAT is included
- ▶ If you are dealing with a foreign company, be clear under which country's law the contract is drawn up and the rate of exchange applied to the fee.
- ▶ Include a statement about what happens in the event of cancellation or if either party is unable to deliver to the agreement
- ▶ Include a statement about any insurance requirements
- ▶ At the end provide a section that allows each party to print their name, provide a signature and date their agreement
- ▶ Send two signed copies to the other party in order that one can be returned signed by them
- ▶ Ensure you keep copies on your computer as well as a hard copy in a 'Contracts' file

Finally, always ask a lawyer (perhaps there is one on your committee or board) to have a look at any documents that you are unsure about. Where a significant amount of risk is involved always seek legal advice.

Quotes and Purchase Orders

Of course, you will not draw up or receive a contract for every agreement that you enter into. When ordering supplies or services ensure that you always receive a written quote before going ahead. It's good practice to send a purchase order to confirm your acceptance of a quote, making sure that you include any delivery or additional instructions as appropriate. Keep all your quotes and orders on file for easy reference.

Licences and Permissions

It is likely that you, the venue, concessionaires and subcontractors, etc will need to have certain licences or permissions in place before the event can be held. Many licenses



are issued by local authorities, so it's best to take their advice early in the planning stages of your event. Appropriate licences may include:

- ▶ **Public Entertainment Licence** – this is usually issued by the local authority for all buildings and locations in the open air at which entertainment is provided to the public. A licence can be issued either for one or more occasions (an Occasional or Temporary Licence) or for a period of one year (an Annual Licence). The main purpose of licensing entertainments is to enable the local authority to ensure the health, safety and welfare of members of the public. Licences are therefore only granted when the premises (or site) and arrangements meet the standards required by the Police, Fire Service, and the relevant council departments.
- ▶ **Street Trader's Licence** – usually required when the sale of goods is in operation, or where food or hot/cold beverages are sold. Issued by the local authority.
- ▶ **Temporary Market Trader's Licence** – similar to the above, but when your event basically constitutes the operation of a market – *i.e.* an art, craft or food fair. Issued by the local authority.
- ▶ **Alcohol Sales** – your event venue/site may have an existing licence or you may be able to negotiate a deal with a licensee to supply a bar. If neither applies, you should investigate if you are able to apply to the local authority for an Occasional Licence.
- ▶ **Building Control & Temporary Structures Licence (Section 89)** – if you are considering converting the use of a building, erecting scaffolding, staging, etc, you will require the assistance of the relevant local authority department and may perhaps require temporary licences such as a Temporary Structures Licence (especially if you intend to build any temporary structures over 600mm).
- ▶ **Land Bond** – the owner of the land on which you stage the event may require a monetary bond to be lodged before you take temporary possession of the land. This bond may be returnable if the owner has incurred no expense in order to reinstate the site to its original state. Even if you aren't required to lodge a bond, ensure that you obtain the written consent of the land owner to proceed with the event on their property.

- ▶ **Planning Permissions** – if certain types of construction are required, sculptures/statues erected, trees planted, etc you are likely to require planning permission from the relevant local authority department.
- ▶ **Road Use and Closures** – if the event requires special road access or road closures for elements such as a road race, parade or a street party, you will need permission from the local authority. The Emergency Services will also be involved in any decisions to close a road.
- ▶ **Environmental & Hygiene Factors** – the relevant local authority department will also be able to advise you on food safety, noise pollution levels, consumer rights and trading issues, clean-up and rubbish up-lift, etc.
- ▶ **Performing Right Society** – when music is played in public the owner of the copyright is entitled, by law, to payment from the music user. The Performing Right Society is an organisation that collects and distributes this money (known as ‘royalties’) to its members – the copyright owners (usually the composer or their publisher). A PRS licence is required for the live performance or public playing of copyright music by any means. This includes jukeboxes, CDs, video, radio, TV or live bands and discos. Contact the PRS on: 0800 068 48 28 or visit www.prs.co.uk for advice.

Note that charges may be applicable for some or all of the elements listed above and these should be factored into the event budget and planning at an early stage. Each licensing authority is likely to have its own procedures and rules – make sure you are familiar with those that apply to your event and area.

When you apply for your relevant licence(s), it is likely that you will have to include details of your event operations including an accurate site plan. These will be circulated to the relevant licensing authorities for their advice and feedback. Representatives from various departments (*i.e.* environmental health and building control) may contact you to extract further detail or clarify information. Although operating licences may be granted in principle prior to an event, it is usual that events only receive their final license inspection (and licence) just prior to the public opening.

The Scottish Outdoor Access Code gives detailed guidance on your responsibilities when exercising access rights to land and inland waters. More info is available at www.outdooraccess-scotland.com

Disability Issues

There are two Acts of Parliament which introduce and provide a means of enforcing rights preventing discrimination against disabled people: The Disability Discrimination Act 1995 (www.legislation.hmso.gov.uk/acts/acts1995/1995050.htm) and The Disability Rights Commission Act 1999 (www.legislation.hmso.gov.uk/acts/acts1999/19990017.htm). When planning your event, ensure that you are abreast of the requirements regarding disabled access. Event organisers could face legal challenges from disabled people unable to access an event. Making events accessible for disabled people is not just a legal requirement however. With around 10 million disabled people in the UK and a combined spending power of £50 billion each year it is an important commercial decision too. The Disability Rights Commission recently published a useful guide aimed at events organisers entitled 'Organising Accessible Events'. This is available to download at www.drc-gb.org. More information is also available at www.disability.gov.uk

Equal Opportunities

If your organisation is employing staff you must be aware of equal opportunity legislation. Regardless of race or ethnicity, disability, gender or sexual orientation, age or religion, legislation is continually being introduced and developed which improves equal opportunities for all. Visit www.eoc.org.uk for up-to-date information.

Data Protection

The Data Protection Act 1998 regulates the processing of personal information, *i.e.* data about living people who can be identified from that information. The Act covers data such as mailing lists and records on staff. It applies to information you hold on a computer and to some paper-based records. For more information visit www.opsi.gov.uk or www.businesslink.gov.uk

Child Protection

Any event staff involved with looking after children should have the appropriate approval from Disclosure Scotland. For more information visit www.disclosurescotland.co.uk. Additional information at www.children1st.org.uk



