

## Incorporation Pros and Cons

Incorporation means constituting your group as a legal entity separate and distinct from your membership or board of directors. It establishes your group as a more permanent structure and limits the personal liability (financial obligation) of the membership.

### **PROS:**

***Separate entity.***, An incorporated organization is recognized as having a legal existence apart from its members. It can own real estate, enter into contracts and agreements, be responsible for its own debts, and sue or be sued. An incorporated organization has a name unique to itself that cannot be used by any other group.

***Limited liability.***- Individual members of the corporation are exempt from personal liability for its debts and obligations. If an association is unable to meet its obligations to creditors its assets may be sold for their benefit but the personal assets of any member are not available.

***Liability insurance:*** Directors' and officers' liability insurance can be purchased by incorporated organizations.

***Perpetual existence:*** An unincorporated organization ceases when the owner/members die or leave. A corporation continues under its name, independent Of who the individual members happen to be, and whether or not they remain members. This facilitates the establishment of long term contracts and commitments that are not tied to any key organizational personnel

***Management of the association:*** An incorporated association is managed by a board of directors elected by the membership. Apart from their role in choosing the board, the members have no general right of interference in management. Incorporation also provides a clear framework for decision making as binding decisions can be made only by a majority of the board of directors.

***Credibility and accountability.*** The requirements of incorporation add to an image of stability and responsibility. The requirement of an annual meeting with proper notification of members and presentation of an annual balance sheet increases the accountability of the corporation. Public record is established from the date of incorporation.

***Financial considerations:*** Corporations and foundations prefer to fund incorporated groups;

many require incorporation. Banks generally will not lend money to an unincorporated group unless individual members guarantee the loan. Incorporation is not required for registration as a charitable organization, but it certainly assists the application.

**Ontario Municipal Board.-** The chair of an O.M.B. hearing may choose not to hear representation from an unincorporated group.

**CONS:**

**Paperwork:** There are substantial paperwork obligations during incorporation. Drawing up bylaws, filling in forms and carrying on correspondence with government departments is time consuming.

**Financial considerations:** The cost of incorporation is not high, but it may be appreciable to a small voluntary organization.

**Loss of organizational flexibility.-** Incorporated organizations are subject to some supervision by government as they must conduct their affairs in accordance with applicable statutes. The corporate structure (bylaws, election of directors, calling of meetings of members etc.) is governed by the Corporations Act.

**Record keeping and reporting requirements:** A corporation is required to report certain information to government on a regular basis- Failure to comply with reporting or disclosure requirements could render the corporation and its directors and officers liable to penalties, the ultimate being cancellation of the charter and dissolution of the corporation