

What I Need to Know

- A Rural Fire Brigade is not an incorporated body as it is created under the *Fire and Rescue Service Act 1990* which regulates its affairs.
- A Rural Fire Brigade is not a legal entity and cannot be sued or enter into legally binding agreements in its own name.
- A brigade should immediately contact the Area Director, Rural Operations if a legal claim is made against a brigade or a brigade member.
- Public liability claims resulting from the actions of a brigade are, in almost every instance, brought against the QFRS as the defendant, not the brigade or the individual.
- Although an individual can be named as a defendant in a civil action, QFRS accepts prima facie responsibility for all actions undertaken by a brigade or an individual for the purposes of the Act and that are performed in a diligent and conscientious manner.
- The QFRS has no record of any volunteer having to pay his or her own money because of a legal claim.
- Individual brigade members have protection from liability under of the Fire and Rescue Service Act and under the *Civil Liability Act 2003*. Section 129(1) of the Fire and Rescue Act states- 'No matter or thing done or omitted to be done by any person pursuant to this Act or bona fide and without negligence for the purposes of this Act subjects that person to any liability'.
- A brigade cannot engage the services of a lawyer. Where a brigade wishes to obtain the services of lawyers the brigade will request assistance from the Area Director, Rural Operations. The Area Director, Rural Operations may request advice on behalf of the brigade from DES Legal Services.
- Brigades are to report any contact from lawyers to the Area Director, Rural Operations.
- Brigades are not to discuss any matter with a lawyer without approval of the Area Director, Rural Operations except where that contact relates to a member being a witness in a legal or other proceeding (see below).

Witness Issues:

- A lawyer may contact a brigade member to be a witness in a proceeding as a result of something the member observed when performing his or her brigade duties.
- The brigade member may decide whether to communicate with the lawyer and whether to agree to be a witness.
- The brigade member must report the contact from the lawyer to the Area Director, Rural Operations.
- A brigade member may not provide the lawyer with any QFRS property, including the originals or copies of manuals or other documents without approval from an Area Director, Rural Operations.
- Brigade members who are subpoenaed to attend court as witnesses or produce documents should contact the Area Director, Rural Operations who may in turn seek assistance from DES Legal Services.

How I do it

- A brigade cannot engage the services of a lawyer. Where a brigade wishes to obtain the services of lawyers the brigade will request assistance from the Area Director, Rural Operations. The Area Director, Rural Operations may request advice on behalf of the brigade from DES Legal Services.
- Brigades are to report any contact from lawyers to the Area Director, Rural Operations.

Reference Materials

- Area Reference Manual – Business Rule: D4.2.4 Manage Legal Matters
- Rural Fire Brigade Manual – Business Rule: D7.27 Brigade Constitution
- *Associations Incorporation Act 1981* Section 5(1)(d) (iii)
- Department of Emergency Services Code of Conduct
- Operations Doctrine
- *Fire and Rescue Service Act 1990*