

## Other liability issues raised by QCPCA

### **How long can a P&C continue if the officers' positions are not filled?**

The election of officers must be held at each annual general meeting of a P&C.

There is nothing to prevent members of the P&C from appointing members to temporarily carry out the roles of those positions if an election at the AGM fails to fill the positions. While the legislation does not specifically address the question asked, if a P&C is unable to continue in carrying out its functions its operations will lapse.

### **Is incorporation of P&Cs a solution to the issues of liability?**

P&Cs are not eligible to become incorporated under the *Associations Incorporation Act 1981*.

One benefit of remaining unincorporated is the power of the Minister to indemnify an individual P&C member against liability incurred if sued. This power is discussed above.

While incorporated associations are generally insured there is no provision for indemnity of members beyond that provided for in the incorporated association's insurance. The insurance will indemnify the person only within the limits of the insurance cover.

The type of insurance held by incorporated associations and by P&Cs is similar and there is no benefit for P&Cs in incorporation.

### **Is directors' and officers' insurance an option?**

Directors' and officers' insurance would not alter the position in relation to indemnity and all P&C members already have the added protection of the Minister's authority to grant an indemnity if that is warranted in a particular case.

The flexibility of the Minister's indemnity is likely to be more beneficial than insurance. The Minister will consider all aspects of the situation in making a decision concerning indemnification of a member of a P&C.

### **What happens to P&C funds if the P&C ceases to operate?**

If a P&C is dissolved, the funds and property held by the P&C are first used to satisfy the P&C's debts. The remaining funds and property are then used for the benefit of students at the direction of the Minister. The relevant Executive Director manages the distribution of funds and property of a dissolved P&C and will consider the circumstances, including other schools that the children might attend.

If a P&C cannot continue to operate but the school remains open the Executive Director may decide that the property will remain at that school. If the school has no use for certain items they might be transferred to other schools for the overall benefit of students.