

10.8.1 Unincorporated associations have no legal personality

Despite the fact that an unincorporated association has no legal personality, it can be found criminally liable as illustrated in *R v L* [2009] 1 All E R 786. A prosecution could be brought against the golf club concerned, in its own name, or against the individual members. The Court of Appeal took the opportunity to remind us of the peculiar characteristics of an unincorporated association.

R v L [2009] 1 All E R 786

Hughes LJ at p. 790:

"There are probably almost as many different types of unincorporated association as there are forms of human activity. This particular one was a club with 900 odd members, substantial land, buildings and other assets, and it had no doubt stood as an entity in every sense except the legal for many years. But the legal description 'unincorporated association' applies equally to any collection of individuals linked by agreement into a group. Some may be solid and permanent; others may be fleeting, and/or without assets. A village football team, with no constitution and a casual fluctuating membership, meeting on a Saturday morning on a rented pitch, is an unincorporated association, but so are a number of learned societies with large fixed assets and detailed constitutional structures. So too is a fishing association and a trade union."

"At common law, an unincorporated association is to be distinguished from a corporation, which has a legal personality separate from those who have formed it, or who manage it or belong to it... At common law, as the judge succinctly held, an unincorporated association has no legal identity separate from its members. It is simply a group of individuals linked together by contract. By contrast, the corporation, of whatever type, is a legal person separate from the natural persons connected with it."