

Financial powers and reporting obligations

Legal information for incorporated associations in New South Wales



This fact sheet covers:

- who is responsible for an incorporated association's finances
- the financial records an incorporated association must keep
- the financial reports an incorporated association must prepare and submit to its AGM, and
- the financial information an incorporated association must provide to NSW Fair Trading

This fact sheet sets out the financial reporting obligations of incorporated associations in NSW.

In NSW, an incorporated association (IA) is incorporated under the *Associations Incorporations Act 2009* (NSW) (Act) and must report to NSW Fair Trading. An IA must comply with the financial reporting and management requirements set out in the Act.

This information is intended as a guide only and is not legal advice. If your organisation has a specific legal issue, you should seek legal advice before deciding what to do.

Who is responsible for an IA's finances?

Each member of the committee (or board) of an IA is jointly responsible for managing the association's finances. This means all committee members need to understand the association's financial obligations and participate in making decisions about the association's finances.

What powers and duties do members of a committee have over an IA's finances?

The committee (or board) of an IA has powers relating to finances. Committee members have a duty to carry out their functions, including in relation to the association's finances, for the benefit of the association and with due care and diligence. Committee members are also required to prevent insolvent trading by the association.

In general, an IA's committee members are jointly responsible for:

- investing and dealing with money that the association doesn't require for immediate use as they consider appropriate
- raising or borrowing money as they consider appropriate
- providing securities for the association's loans or debts by granting mortgages, charges or securities on or over the association's property, and

- doing other things that advance the association’s purposes by exercising their powers

IAs can restrict or amend committee members’ powers through the association’s rules. For example, the rules may require that members approve investment plans through a vote at a general meeting.

NOTE

An IA’s rules (constitution) must state the committee’s functions (see Schedule 1 of the Act). An association’s rules will often state that the management committee must manage and control the association’s business and affairs. Check whether your association’s rules limit the powers of the management committee.



If your IA is registered as a charity with the Australian Charities and Not-for-profits Commission (**ACNC**), committee members must also follow the ACNC’s Governance Standards. The directors’ duties are outlined in Governance Standard 5. These are broadly the same as those in the Corporations Act and include:

- the duty to act with reasonable care and diligence
- the duty to act honestly and fairly in the best interests of the charity and for its charitable purposes
- the duty not to misuse their position or information they gain as a responsible person (this includes the role of director)
- the duty to disclose and manage any actual or perceived conflicts of interest
- the duty to ensure the charity’s financial affairs are managed responsibly, and
- the duty not to allow the charity to operate while it’s insolvent

FURTHER READING

The [ACNC Governance for Good guide](#) explains these standards in more detail. You can also refer to our resources on [governance](#) and [reporting](#).



Can't we just leave all this financial stuff to the treasurer?

No – the law is clear that all committee members are responsible for managing an IA’s finances, not just the treasurer.

The treasurer (or financial officer – or whatever other name is given to the position) is generally charged with the task of making sure that the IA’s financial transactions are properly recorded and reported. This includes preparing and presenting financial reports at committee or board meetings. It’s important that these reports are easily understood by all committee members because they are all responsible for keeping a check on the IA’s finances.

While the treasurer may not be able to do all the regular financial tasks personally, it is the treasurer’s responsibility to make sure systems are in place to allow these tasks to be properly and consistently completed (for example, by employees of the IA).

Other tasks for the treasurer may include:

- making sure finances are well planned by preparing an annual budget and then regularly monitoring this budget to make sure that the organisation is staying within it

- making sure that accounting books are up to date and in order – there must be a proper record of all payments made and money received, and accounts should be reconciled at least once a month
- taking reasonable steps to prevent funds from being stolen or misused, and
- making sure records are easily accessible so that a financial statement can be prepared (and, if necessary, reviewed or audited) at year end

What financial records does an IA have to keep?

The Act requires that IAs keep:

- records which correctly record and explain the association's financial transactions and financial position, and
- committee meeting and general meeting minutes

An IA needs these records to prepare its financial statements. Records for a Tier 1 association (discussed below) must be sufficient to allow preparation of financial statements in line with Australian Accounting Standards.

Examples of financial records include general account books (such as journals and ledgers), cash book records, banking records, creditors' records, debtors' records, details of any relevant contracts, details of any grant payments and acquittals, tax invoices and other relevant tax records, stock records, records of expenses, records of payments relating to employees, an assets list or register, and emails, letters and other communications about finance.

What kind of financial reports must an IA prepare and submit to its AGM?

The Act sets out a tiered (two category) approach to financial reporting. An IA's tier (or category) is determined by the association's gross receipts for the financial year last ended or its current assets calculated in accordance with the *Associations Incorporation Regulations 2016 (NSW)* (**Regulations**).

Under the Regulations, 'gross receipts' are equal to the total revenue recorded in the association's income and expenditure statement and 'current assets' are equal to the assets (including amounts held in banks, stocks and debentures) held by the association, excluding real property and depreciable assets.

An IA is a **Tier 1** association if its gross receipts for the financial year last ended, or its current assets, exceed the amount prescribed by the Regulations. All other IAs are **Tier 2** associations.

The table on the following page sets out the categories and their minimum reporting obligations.

	Definition	Financial reporting requirements
Tier 1 (large)	<p>IAs whose gross receipts for the last financial year exceed the amount prescribed by the Regulations (at 1 July 2019, this amount is \$250,000)</p> <p>or</p> <p>IAs whose current assets (ie. assets other than real property or depreciable assets) exceed the amount prescribed by the Regulations (at 1 July 2019, this amount is \$500,000).</p> <p>Note: the amounts prescribed by the Regulations may change. Check the prescribed amounts regularly.</p>	<p>As soon as practical after each financial year end, the committee must make sure that:</p> <ul style="list-style-type: none"> financial statements for the year are prepared about the IA's financial affairs (including as the trustee of any trust), and the IA's financial statements are audited in time for them to be submitted to the IA's next annual general meeting (AGM) <p>The financial statements must:</p> <ul style="list-style-type: none"> be prepared in line with Australian Accounting Standards (if total revenue is \$2 million or more), or satisfy the requirements of Class Order 11/01 (if total revenue is less than \$2 million) <p>The financial statements must also be audited:</p> <ul style="list-style-type: none"> by someone who is: <ul style="list-style-type: none"> a registered company auditor or a firm of registered company auditors, or a member of CPA Australia, Chartered Accountants ANZ, or the Institute of Public Accountants, and in line with Australian Auditing Standards <p>At each AGM, the committee must:</p> <ul style="list-style-type: none"> submit the IA's financial statements for the previous financial year, and the auditor's report for those statements, and make sure a copy of the financial statements, the auditor's report and a record of any resolution passed about the statements or report is included in the AGM minutes
Tier 2 (small)	<p>All other IAs whose gross receipts for the last financial year or current assets are less than the amounts prescribed by the Regulations (see above).</p>	<p>As soon as practical after each financial year end, the committee must:</p> <ul style="list-style-type: none"> make sure that financial statements for the year are prepared about the IA's financial affairs (including as the trustee of any trust) <p>The financial statements must include:</p> <ul style="list-style-type: none"> an income and expenditure statement and a balance sheet (the balance sheet sets out the IA's sources of income and individual expenses incurred in its operation and the IA's assets and liabilities) details of any mortgages, charges and other securities over the IA's property, and a separate income and expenditure statement and balance sheet for each trust for which the IA is trustee <p>Financial statements don't need to be audited unless NSW Fair Trading requests this or they are required under the IA's constitution or funding arrangements.</p> <p>At each AGM, the committee must:</p> <ul style="list-style-type: none"> present the IA's financial statements for the previous financial year, and make sure a copy of the financial statements and a record of any resolution passed about the statements or report is included in the AGM minutes

TIP

An IA must hold an AGM with 18 months of incorporating. After that, an IA must hold an AGM every 12 months, within six months of the end of the IA's financial year.

When incorporating, an association decides when it wants its financial year to begin and end (eg. an association could choose to end its financial year on 30 March instead of 30 June).



What financial information must an IA provide to NSW Fair Trading?

Both Tier 1 and Tier 2 IAs must lodge an 'Annual summary of financial affairs' (Form A12) for the financial year with the Commissioner of Fair Trading, together with the prescribed fee, unless they have an exemption from doing this. IAs that are charities registered with the ACNC are generally exempt and only need report to the ACNC (see our caution box below).

FURTHER READING

For more information about reporting to the ACNC – see the Resources list at the end of this fact sheet and our [fact sheet on financial reporting for charities](#).

Tier 1 IAs must also lodge:

- the audited financial statements for the financial year as presented at the AGM
- the auditor's report for the statement, and
- a copy of the terms of any resolution passed at the AGM about the financial statements and the auditor's report

These documents must be lodged within one month of the AGM, or within seven months of the end of the previous financial year, whichever is earlier. In some circumstances you can apply for an extension of time to lodge your financial statement, form and review or audit report. A link to the extension application form is included in the Resources section below. A fee must be paid when seeking an extension.

CAUTION

Reporting obligations for NSW IAs that are also charities registered with the ACNC changed on 1 October 2018.

These IAs no longer need to:

- lodge an annual statement with Fair Trading, or
- pay an annual statement lodgement fee (to Fair Trading)

The exemption is not retrospective (for financial years that end before 30 June 2018, separate annual statements must be provided to NSW Fair Trading and the ACNC).

The exemption does not apply to charities that the ACNC has approved may withhold financial details or financial reports from the ACNC register.

For further information see our resource on [reporting to NSW Fair Trading](#).



Resources

Related Not-for-profit Law Resources

[Not-for-profit Law](#) has resources on the following topics:

- ✔ Registering as a charity – www.nfplaw.org.au/charity
- ✔ Charity reporting – www.nfplaw.org.au/charityreporting
- ✔ Governance and legal duties of office holders – www.nfplaw.org.au/governance
- ✔ Holding meetings – www.nfplaw.org.au/meetings

Other Related Resources

- ✔ [Australian Charities and Not-for-profits Commission \(ACNC\)](#)

The [Reporting annually](#) page of the ACNC website provides information on reporting requirements according to a charity's size.

- ✔ [Fair Trading NSW](#)

The [Associations forms](#) page of the Fair Trading website includes PDFs of forms including 'Annual summary of financial affairs' (Form A12) and the application form for extension of time to provide NSW Fair Trading with financial statement (Form A11).

Some IAs in NSW use NSW Fair Trading's [Model constitution](#). This page of the Fair Trading website includes more information about the model constitution.

- ✔ [Chartered Accountants ANZ](#) – enhancing not-for-profit annual and financial reporting
- ✔ [Governance Institute of Australia](#) - The Governance Institute has a series of good governance guides, which includes information on financial reporting. They also provide a pro bono program to assist with things like governance audits, board paper templates and annual report preparation. Contact the Governance Institute for their guidelines on when a group is eligible for this free assistance.
- ✔ [CPA Toolkit](#) – CPA has a toolkit with tools, templates and other resources relevant to not-for-profit management.
- ✔ [QUT Approving Financial Statements](#) – The Australian Centre for Philanthropy and Nonprofit Studies at the Queensland University of Technology has a resource on not-for-profit governance which includes a page on approving financial statements.

Legislation

- ✔ [Associations Incorporation Act 2009 \(NSW\)](#)
- ✔ [Associations Incorporation Regulation 2016 \(NSW\)](#)
- ✔ [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)
- ✔ [Australian Charities and Not-for-profits Commission Regulation 2013 \(Cth\)](#)
- ✔ [Associations Incorporation Act 2009 exemption order No. 001/18 \(PDF\)](#)

A Not-for-profit Law resource. Access more resources at www.nfplaw.org.au

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