

Financial powers and reporting obligations

Legal information for Tasmanian community organisations



This fact sheet covers:

- Who is responsible for overseeing your association's finances
 - What are the requirements for preparing financial information, including auditing
 - What kind of financial information needs to be provided at your associations annual general meeting
 - What financial information needs to be provided to Consumer, Building and Occupational Services
 - What if your incorporated association is a registered charity
 - What financial records must your association keep
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Incorporated associations in Tasmania and their management committees must comply with the financial reporting and management requirements set out in the *Associations Incorporation Act 1964 (TAS)* (the Act) and the *Associations Incorporation Regulations 2017 (TAS)* (the Regulations).

This fact sheet explains what those requirements are and is general information only. Your association may need to seek specific advice.

Who is responsible for overseeing our association's finances?

Each member of the management committee (sometimes referred to as the committee of management or board) of an incorporated association is jointly responsible for managing the finances of the association. 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 association's finances?

The committee of an incorporated association usually has broad powers relating to the association's finances. Committee members of an incorporated association must comply with a range of duties under the Act and the Regulations as well as the association's rules, which include duties concerning the finances of the association.

Under the Act and the common (judge-made) law each the management committee of the association has management of the association, including its finances. This means that a member of a management committee owes the association duties including duties:

- to keep accounts to all transactions of the association in a manner that enables the preparation of fair accounts that can be audited

Under the common law (judge made law) the committee members duties also include:

- not to put his or her duty as a committee member in conflict with his or her personal interest without the association's consent
- not to personally receive a profit at the expense of the association without the association's consent, and
- to exercise the degree of care, skill and diligence reasonably expected in the circumstances.

Incorporated associations can restrict or amend committee members' powers through the rules of the association, as long as the restriction or amendment is not contrary to law. For example, the rules may require that members approve the association's annual membership fee, or the association's investment plans be agreed at a general meeting.

NOTE

The rules (constitution) of an incorporated association must state the functions of the committee (see Schedule 1 of the Associations Incorporation (Model Rules) Regulations 2017). An association's rules will often state that the management committee must manage and control the business and affairs of the association. Check whether your association's rules limit the powers of the committee of management.



An incorporated association that is registered as a charity with the Australian Charities and Not-for-profits Commission (the **ACNC**), will also need to comply with the ACNC's Governance Standards. These Governance Standards impose specific duties on committee members, for example, a duty to ensure that the financial affairs of the charity are managed responsibly. For more information about the duties of committee members under the Governance Standards, go to Not-for-profit Law's Governance resources at www.nfplaw.org.au/governance.

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

No – the law is clear that all members of the committee are responsible for managing the association'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 ensuring that financial transactions are properly recorded and reported on. The treasurer usually presents financial reports at committee meetings. It is important that these reports are easily understood by all the committee members because the committee members are all responsible for keeping a check on the financial position of the association.

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

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 association is staying within it

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

What are the requirements for preparing your association's financial information, including auditing?

An incorporated association must keep accounting records that correctly record and explain the transactions (including any transactions as a trustee) and the financial position of the association. These accounting records must be kept in such a way that true and fair accounts of the association can be prepared and properly audited if required in accordance with the Act. Committee members may be liable if they do not take reasonable steps to ensure that the association complies with these obligations.

What are the requirements around carrying out an audit?

Subject to an incorporated association's rules, if the association's annual revenue for the financial year is less than \$250,000, or if it has otherwise been granted an exemption by the Commissioner, the association is not required to have its financial accounts audited.

An incorporated association with annual revenue of \$250,000 or more must have its financial accounts audited as soon as practicable after the end of the association's financial year. The audit must be conducted by someone who is:

- a registered company auditor (within the meaning of the *Corporations Act 2001* (Cth)) or
- a firm of registered company auditors or
- other persons approved by the Commissioner.

The accounts of an association must not be audited by a person (or a firm with a partner) who is any of the following:

- the public officer, or a member of the committee, of the association
- an employee of the association, or
- a partner, employer, or employee of the public officer, or of a member of the committee, of the association.

What financial information needs to be presented at your associations Annual General Meeting (AGM)?

The holding of annual general meetings and other meetings is governed by the rules of the association. Usually, the rules will require the committee to present, for the consideration of members at the annual general meeting, reports on the transactions of the association for the preceding financial year. You will need to check your association's rules to determine the specific requirements for your association.

What financial information needs to be provided to Consumer Affairs and Fair Trading?

Consumer Building and Occupational Services (**CBOS**) is the regulator of incorporated associations in Tasmania.

Incorporated associations have different reporting obligations depending on whether or not they are a registered charity with the ACNC. If your association is a registered charity, please see the next section of this factsheet.

Generally, incorporated associations with revenue of \$250,000 or more for the financial year must lodge an 'annual return' with CBOS. The annual return must contain:

- a report on the accounts of the association that states whether the association has kept proper accounting records and other books during the period covered by the accounts
- statements that in the opinion of the auditor are adequate to explain its financial transactions for that financial year and its financial position at the end of that financial year, and an auditor's report on these statements
- a list of names and residential addresses of the committee members for that financial year.

Annual returns must be lodged with the prescribed fee.

Incorporated associations with annual revenue of less than \$250,000 are required to lodge an annual return with CBOS, however there is no requirement to have financial accounts audited.

What if my incorporated association is a registered charity?

If an incorporated association is a registered charity with the ACNC, it is no longer required to submit a full annual return to CBOS, provided it has complied with its ACNC reporting obligations.

Incorporated associations that are registered charities must still submit a simplified annual return to CBOS, within 6 months of the end of the financial year, which contains:

- a statement of the associations income and expenditure for that financial year, and
- a list of the names and residential addresses of the committee for that financial year.

CBOS may also request a copy of the association's Annual Information Statement provided to the ACNC.

CAUTION

Registered charities are required to lodge an Annual Information Statement with the Australian Charities and Not-for-profits Commission within 6 months of the end of its financial year. Depending on the size of the charity it may also need to have the financial reports reviewed or audited. Find out more at www.nfplaw.org.au/charityreporting.



What financial records must our association keep?

Associations are required to keep accounting records that record and explain the transactions and financial position of the association. These records need to be kept in an organised way that allows accounts to be prepared and audited when required.

The Model Rules provide that the treasurer of the association is to keep all accounting books, general records and records of receipts and payments connected with the operation of the association in the form and manner the committee decides. More specifically, the Model Rules provide that financial records of all receipts or payments of money by the association, and details of what the receipt or payment was for, need to be kept. Records must also be kept of all the association's assets and liabilities.

It is not compulsory for the Model Rules to be adopted, but associations should be aware that unless their rules or constitution specifically contradict or alter one of the Model Rules, the Model Rules will generally apply to the association.

The Act requires incorporated associations to retain their accounting records for a period of 7 years after the transactions to which they relate were completed.

Resources

Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub (www.nfplaw.org.au) has further 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 [Report annually](#) page of the ACNC website provides information on reporting requirements according to a charity's size.

- ✔ [Consumer, Building and Occupational Services Affairs \(TAS\)](#)
 - [Associations Forms](#) – the 'annual return' form as well as the link to lodge online.
 - [Model Rules](#) – some incorporated associations in Tasmania use the 'model rules' published in the [Associations Incorporation \(Model Rules\) Regulations 2017](#) (TAS) while others draft their own. You should check your association's rules to determine the specific requirements for your incorporated association.
 - [Fees](#) – table of fees for filing financial statements (and other documents) with Consumer Affairs and Fair Trading
- ✔ [Institute of Chartered Accountants \(ICA\)](#) – 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 two guides 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 nonprofit governance which includes a page on approving financial statements.

Legislation

- ✔ [Associations Incorporation Act 1964 \(TAS\)](#)
- ✔ [Associations Incorporation Regulations 2017 \(TAS\)](#)
- ✔ [Associations Incorporation \(Model Rules\) Regulations 2017 \(TAS\)](#)
- ✔ [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)

A Not-for-profit Law Information Hub resource. Access more resources at www.nfplaw.org.au. Justice Connect Not-for-profit Law acknowledges the generous support of our funders and supporters. Find out more at www.nfplaw.org.au

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