

Financial powers and reporting obligations

Legal information Australian Capital Territory incorporated associations



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 association's annual general meeting
 - What financial information needs to be provided to Access Canberra
 - What if your association is a registered charity
 - What financial records must your association keep
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Incorporated associations in the Australian Capital Territory and their management committees must comply with the financial reporting and management requirements set out in the *Associations Incorporation Act 1991* (ACT) (the Act) and the *Associations Incorporation Regulations 1991* (ACT) (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 your 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 has powers relating to the finances of the association. 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 may include duties concerning the finances of the association.

Under the Act each committee member of an incorporated association has legal duties in relation to the management of the association. These duties include obligations to:

- keep accounting records that correctly record and explain all transactions of the association and the financial position of the association
- disclose any monetary interest in a contract or proposed contract to be entered into by the association, and not participate in any decision making in relation to such a contract.

Under the common law (judge made law which is not found in legislation) committee members also have a duty not to personally receive a profit at the expense of the association without the association's consent. They also have a duty to exercise their powers with a degree of care, skill and diligence reasonably expected given circumstances and knowledge at the time.

Incorporated associations are able to 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 plan be agreed at a general meeting.

NOTE

The committee is ultimately responsible for managing and controlling the business and affairs of the association. The rules (constitution) of an incorporated association must state the powers of the committee (see Schedule 1 of the Act). 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 finances 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 accounting books and records 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
- ensuring that 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 and reporting your association's financial information?

An incorporated association must keep accounting records that correctly record and explain the transactions (including any transactions as 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 a statement of the accounts of the association can be audited in accordance with the Act. Committee members may be liable if they do not comply with these provisions.

! CAUTION

Incorporated associations in the ACT who are also registered charities are exempt from some provisions in the Act in relation to keeping accounts and providing annual statements. See below.

What are the requirements around carrying out an audit?

The auditing requirements for an association will depend on whether the association is considered a small, medium or large association for the purposes of the Act. See Table 1 below.

- Small associations are not required to have their accounts audited - they are only required to provide financial statements.
- Medium and large associations will need to have their accounts audited.

TIP

The committee must take reasonable steps to ensure that an audit of the association's account is completed at least 14 days before having to present the audit report at the AGM. The committee will need to give the auditor access to accounting and other records for the purposes of the audit.



Table 1: Auditing requirements for incorporated associations

Size	Definition	Audit requirement	Auditor qualifications
Small	Less than \$400,000 revenue annually and less than 1,000 members (does not have a liquor licence).	No. Only required to provide financial statements showing income, expenditure, assets and liabilities.	A person who is not an officer of the association and has not prepared the accounts. See below.
Medium	Between \$400,000 and \$1,000,000 revenue annually, or	Yes.	Registered company auditor under the <i>Corporations Act 2001</i> (Cth) or a current member of Chartered Accountants

	has 1,000 members or more, or a liquor licence.		in Australia, the Institute of Public Accountants or CPA Australia.
Large	More than \$1,000,000 revenue annually.	Yes.	Auditor must be a registered company auditor under the <i>Corporations Act 2001</i> (Cth).

Auditors must not be:

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

'Officer' includes a member of the association's committee, a person who takes part in the management of the association, or a public officer, secretary, treasurer or executive officer.

RELATED RESOURCES

For more information about the positions in an incorporated association, see www.nfplaw.org.au/whoruns.

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

At each annual general meeting (AGM) the committee must present the association's financial statements for the previous financial year to members. The financial statements must not be misleading and must give a true and fair account of the association's accounts.

In addition to the financial statement, the committee must also present to members at each AGM:

- a report signed by 2 members of the committee that states:
 - the name of each member of the committee for the last year
 - the principal activities of the association and any significant change in the nature of those activities from the last year, and
 - the net profit or loss of the association for the last year
- if the accounts were audited - a copy of the auditor's report in relation to the association's financial statements for the last financial year.

TIP

An incorporated association must hold an AGM within 18 months of first incorporating. Then an AGM must be held every 12 months, within 5 months of the end of the association's financial year. Incorporated associations can decide when they want their financial year to begin and end (e.g. an association could choose for its financial year to end on 30 March instead of 30 June).

What financial information needs to be provided to Access Canberra?

Access Canberra is the regulator of incorporated associations in the Australian Capital Territory.

All associations - **except** those which are registered as charities under with the ACNC (see above) - must lodge an 'Annual Return' (Form AR) to Access Canberra within 6 months of the financial year ending. This form includes a statement certifying that the financial statements and the audit comply with the Act, which must be signed by the public officer and 2 members of the committee.

- Small associations must also lodge the association's financial statements (as presented at the AGM), showing income, expenditure, assets and liabilities.
- Medium and large associations must also lodge the audited financial statements and a copy of the auditor's report for the statement (as presented at the AGM).

There is no fee for the lodgement of the annual return if it is provided to Access Canberra within six months.

Late fees apply for returns lodged with Access Canberra after six months.

RELATED RESOURCES

All forms and fees, as well as payment details are available on the Access Canberra website. See:

www.accesscanberra.act.gov.au/app/answers/detail/a_id/1504/~~/incorporated-associations#!tabs-5.



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 an annual return to Access Canberra. This means that the financial reporting obligations to keep accounting records, prepare statements of accounts (and present them to members), audit requirements as well as the provision of an annual reported, do not apply to registered charities. Rather, incorporated associations which are registered charities will only need to report to the ACNC.

Registered charities will need to ensure that they fully comply with their reporting obligations to the ACNC. In order to do so it is likely that the organisation will have to keep accounting records, prepare statements of accounts and present them to members and may need to undertake audits.

Access Canberra and the ACNC will share information relating to incorporated associations that are registered charities and reporting to the ACNC as necessary.

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

For more information on the reporting requirements of incorporated associations which are registered charities, go to Access Canberra's [website](#).



What financial records does your association have to keep?

The Act requires incorporated associations to keep accounting records that:

- correctly record and explain the transactions and financial position of the association, and
- mean that true and fair accounts of the association can be prepared, and can be conveniently and properly audited.

The financial position of the association and these records must be kept for at least 7 years.

Resources

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

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. Also see information on [regulation of charities in the ACT](#).
- ✔ Access Canberra:
 - [Incorporated associations in the ACT guide](#) - providing information for applicants and existing associations on their obligations
 - [Associations Forms](#) – the 'Annual summary of financial affairs' (Form A12) as well as the application form for extension of time to provide Access Canberra with financial statement.
 - [Model Rules](#) – some incorporated associations in ACT use the 'Model rules' published by Access Canberra, and
 - [Association Constitution and Rules Checklist](#) - you should check your association's rules to determine the financial and reporting requirements for your incorporated association.
- ✔ [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 Non-profit Studies at the Queensland University of Technology has a resource on non-profit governance which includes a page on approving financial statements.

Legislation

- ✔ [Associations Incorporation Act 1991 \(ACT\)](#)
- ✔ [Associations Incorporation Regulation 1991 \(ACT\)](#)
- ✔ [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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