

SECRETARY'S LEGAL ROLE, POWERS AND DUTIES

Part 3: A Secretary's Satchel - Guide for Secretaries

New laws for Victorian incorporated associations

In November 2012, the laws regulating Victorian incorporated associations changed. The *Associations Incorporation Act 1981* (the old Act) was replaced with the *Associations Incorporation Reform Act 2012* (the new Act). This Secretary's Satchel reflects the new laws.

Important! Rules changes affecting *all* incorporated associations

From 26 November 2012 there are new laws for incorporated associations. There are also new matters that must now be covered by an organisation's rules. Organisations that were using the model rules now have new model rules that apply (unless they chose to change their rules). This Guide refers to the new model rules.

SECRETARY'S LEGAL ROLE, POWERS AND DUTIES

This Part of the [Guide for Secretaries](#) covers the legal role, powers, duties and liabilities of a secretary of an incorporated association in Victoria.

Key Points

1. What are the main legal tasks of a secretary?

In Victoria, laws regulating incorporated associations shape the secretary's tasks and responsibilities. There are specific tasks required of the secretary in the *Associations Incorporation Reform Act 2012* (Vic). These include reporting to Consumer Affairs Victoria (CAV) on the organisation's financial affairs in the "annual statement" and notifying CAV of changes to key information about the organisation. An association's rules will set out additional requirements. Typically the secretary will have responsibility for organising meetings, dealing with memberships and keeping records of the organisation. There are tools in this Part to help you understand these tasks.

2. What are the legal duties of a secretary?

As an "office holder" of the association, the secretary has specific duties set out in the *Associations Incorporation Reform Act 2012* (Vic) when they are performing their role and carrying out their tasks. These statutory duties are in addition to very similar general duties that apply through the law developed by the courts ("judge-made" law, or common law).

3. What happens if a secretary breaches any of their legal duties?

There are consequences of breaching a duty under the *Associations Incorporation Reform Act 2012* (Vic) and judge-made law, including monetary penalties which are discussed further in this Part.

4. Does a secretary have power to act on behalf of the organisation?

The law gives a secretary power to act on behalf of the incorporated association in certain situations. The committee may authorise the secretary to act on behalf of the organisation more broadly (called "delegating").

5. When is a secretary personally liable for the debts and liabilities of the organisation?

A secretary is generally not personally liable (legally responsible) for the debts and liabilities of an organisation unless they provide a personal guarantee (for example, if they act as guarantor for a loan of the association).

1. What are the main legal tasks of a secretary?

The main tasks and legal obligations of the secretary of an incorporated association are contained in:

- the *Associations Incorporation Reform Act 2012* (Vic) (the **AIR Act**) and the *Associations Incorporation Reform Regulations 2012* (Vic) (the **Regulations**)
- the organisation's rules (sometimes called the "constitution")
- the organisation's policies and procedures (if any), and
- other legislation (for example, to do with occupational health and safety).

The law in Australia varies between each State and Territory. If your organisation is incorporated outside of Victoria, you will need to check the legislation that is relevant to you.

Remember!

Make sure you have the most up-to-date version of your rules, including any changes that the organisation's members and Consumer Affairs Victoria (**CAV**) have approved.

If you are confused about which rules apply to you and whether the copy you have is up-to-date, the best thing to do is to contact CAV and request a copy of your organisation's rules and purposes.

Your rules may not reflect all the requirements of the laws for incorporated associations. See our [Rules Checklist](#) for more information.

The legal tasks of a secretary essentially fall into two categories, external and internal responsibilities.

External responsibilities

External reporting tasks include reporting to CAV on the organisation's financial affairs in the "annual statement" and notifying CAV of changes to key information about the organisation. This part of the Guide does **not** deal with these tasks. For information about the external reporting tasks of the secretary, see [Part 8: Reporting to Consumer Affairs Victoria](#) in this Guide.

Internal Responsibilities

This part of the Guide deals with the secretary's internal tasks related to the administration of the organisation.

While the specific internal administration tasks vary from organisation to organisation, in general the secretary is responsible for:

- organising meetings (for example, sending notices of meetings, drafting the agenda, writing and distributing minutes of meetings)
- dealing with applications to join the association and membership records (for example, keeping the organisation's register of members up to date)
- receiving, assessing and deciding on members' requests to have access to their personal information on the members' register restricted (this is a new role, and is discussed in detail in Part 4: Registers, Records and Official Documents of this Guide)
- dealing with requests for access to information of the association by members (discussed in detail in Part 4: Registers, Records and Official Documents), and
- maintaining particular documents and records of the association (for example, keeping copies of funding agreements or leases).

Tip:

Print the tables at the end of this Part and keep them as an ongoing checklist or reminder:

- [Tool 1: Main tasks of a secretary – meetings](#)
- [Tool 2: Main tasks of a secretary – membership, and](#)
- [Tool 3: Main tasks of a secretary – record keeping.](#)

If the table refers to a clause in the model rules, and your organisation does not use the model rules, check your organisation's own rules - as they may be different.

The secretary may authorise someone else (for example, volunteers or paid staff) to do some or all of the particular tasks that they are responsible for (this is called 'delegating'). However, the secretary remains legally responsible for the tasks carried out by others. Therefore, secretaries should be careful to supervise those carrying out their tasks, and to put in place policies and procedures to ensure the tasks are carried out properly.

Note:

This Part of the Guide deals with the internal administration tasks of the secretary only. The secretary also has external reporting functions under the *Associations Incorporation Reform Act 2012* (Vic). See Part 8: Reporting to Consumer Affairs Victoria in this Guide for information about these functions.

Duties and obligations under other legislation

Other laws may also apply to the secretary as an office holder of the organisation. For discussion of the concept of "office holder" under the AIR Act go to Part 1: Association in a Nutshell in this Guide.

Some other laws that secretaries should bear in mind are laws relating to occupational health and safety (**OHS**), fundraising, liquor licensing, gaming, industrial relations, copyright, defamation, crime, privacy, and environment laws as well as local council by-laws. These laws can apply to the secretary, the committee, or to any member of the incorporated association.

Where such laws apply, the secretary - and the organisation generally - must comply with them. For example, criminal laws relating to theft and obtaining property by deception would apply to a secretary (or any other person) who was stealing from an organisation.

For further information about Victorian OHS laws, see the Not-for-profit Law Information Hub at www.nfplaw.org.au/OHS.

Branch secretaries

If an organisation is large, it may have branches. See Part 1: Association in a Nutshell in this Guide for more information about branches and branch secretaries.

It is very important for branch secretaries to keep up good communication with the secretary of the parent organisation and to maintain accurate records and registers. It is also important for the parent organisation to have written policies and procedures to help the branch secretaries in their role.

In many cases, a branch secretary is not a member of the (parent organisation's) committee and may not be the "secretary" of the association for the purposes of the AIR Act. However, in these cases the branch secretary may still be regarded as an "officer holder" with legal duties under the AIR Act and judge-made law because of their trusted ("fiduciary") position.

For this reason, it is good practice for branch secretaries (and any other similar officers, where relevant) to assume that they have the same legal duties as the secretary of the parent organisation.

2. What are the legal duties of a secretary?

Legal duties apply to secretaries, and require them to act in a certain way when performing their role. The legal duties in Victoria come from two sources:

- legislation (that is, the AIR Act), and
- the law developed by the courts (that is, "judge-made law" or common law).

The legislative requirements (under the AIR Act) apply to *all* "office holders", which includes a secretary, whether or not they are a member of the committee (see section 82 of the AIR Act). These requirements are called "statutory duties". (The word "statutory" is used because a piece of legislation is also called a "statute".)

A secretary's duties under judge-made law arise because of the position of trust that a person in that role holds. These duties are sometimes called "fiduciary duties". These fiduciary duties under judge-made law overlap significantly with statutory duties under the AIR Act.

In practical terms, the combined effect of the AIR Act requirements and judge-made law is that a secretary should:

- act honestly and fairly
- use their powers to further the organisation's purposes
- properly manage conflicts of interest, and
- be diligent, careful and attentive, and use their skills for the benefit of the organisation.

These duties all overlap, and are discussed briefly below (note: if there is a specific statutory duty under the AIR Act, the section number from the Act is included). Detailed information can be found at Justice Connect's Information Hub at www.nfplaw.org.au/people.

(a) Act honestly, fairly and for a proper purpose

Acting honestly and fairly for the benefit of the organisation means that a secretary should:

- act in good faith (with integrity) and in the best interests of the organisation, assisting the organisation to achieve its objectives (as contained in the organisation's purposes in its rules, and other documents such as a mission and values statements (see section 85(1)(a))
- not act for their own benefit or the benefit of a particular group of members. For example, a secretary should not receive bribes or "kickbacks" from suppliers to the organisation and should not act in a way which treats a particular member of the association unfairly, or is not in the interests of members of the organisation as a whole (see sections 61 and 68) – for example, a secretary should not use their powers to discriminate against members of the organisation they do not like or prevent them from attending or voting at a general meeting, and
- make sure the organisation is only doing things that are permitted by the organisation's rules and purposes (see section 34).

(b) Duty to not misuse position or information

A secretary must also not misuse their position, or the information they have access to through their position, to get an "advantage" (financial or not) for themselves or any other person (such as a relative) or to damage the association (see section 83). Some examples of misuse of information or position could be:

- using details from the register of members for a mail-out about a friend's business
- authorising their own petty cash reimbursements
- executing contracts for the organisation when they have a personal interest in the contract (for example a contract to purchase stationery from their own stationery business), or
- providing information about job applicants for a position available in the association to a friend who is applying for the position.

(c) Properly manage conflicts of interest (only applies when the secretary is a member of the committee)

A conflict of interest is when a secretary sits on the committee, and their personal interests (or interests of a friend, family, or another organisation) are at odds (in “conflict”) with the interests of the organisation. A secretary may have a “conflict of interest” if, for example, an opportunity is available to the organisation that the secretary could profit from personally – for example if the organisation was looking for an electrician, and the secretary owns an electrics business.

Example:

The committee of XYZ Inc is deciding on pay rates for staff. The secretary of XYZ Club Inc is on the committee, and her partner is a paid staff member of the organisation.

The secretary must:

- tell the meeting that her partner is a member of staff (as she may have a conflict of interest)
- not take part in discussions about her partner's pay rate
- not vote on motions about her partner's pay rate
- make sure that the minutes record what she told the committee, and also how the meeting dealt with the matter (for example, she left the room while her partner's pay rate was discussed and voted on), and
- include details of her interest in the financial statement submitted to members at the annual general meeting.

To comply with the legal duty to manage conflicts of interest, secretaries need to take a three step approach when a conflict arises. This means that a secretary should:

- **disclose:** tell the committee about any actual or even potential conflict of interest – for example, being a member of a competing organisation, or owning a business that is tendering for a contract, and tell the committee about (and include in the statement provided to members at the annual general meeting) any direct or indirect interest (“material personal interest”) they have in a matter (see section 80)

- **manage:** not be involved in any discussion about the matter in which they have an interest (see section 81(1)(a)) and not vote on a decision about the matter in which they have an interest (see section 81(1)(b)), and
- **record:** ensure that meeting minutes reflect that where a conflict was disclosed, the secretary left the meeting for the relevant discussion and vote, and then returned afterwards.

In certain situations, the statutory duties about conflicts of interest in sections 80 and 81 of the AIR Act (see above) do *not* apply. A secretary does not need to disclose a conflict of interest if the secretary's material personal interest is only because:

- the secretary is in a class (group) of people for whose benefit the organisation is established, or
- the secretary has the interest in common with all, or a substantial proportion, of the members of the organisation.

In addition, a secretary does not have to tell the committee about any interest in a matter that only exists because they are a paid staff member of the organisation (see section 80(3)(a)(i)).

Tip:

People's perceptions about whether there is a conflict of interest are important. So, even if you are legally allowed to participate in discussions or vote on matters in which you have a personal interest as one of the exceptions applies, it is usually good practice not to do so.

Avoiding conflicts of interest gives members and other people dealing with the organisation confidence that the organisation is well managed, and that decisions are being made fairly and for the benefit of the organisation.

(d) Duty to act with reasonable care, diligence and skill, and use your skills for the benefit of the organisation

This duty is sometimes called exercising care and diligence (see section 84(1)). It means the secretary is required to meet the standard of an average secretary in an organisation of a similar type and size, taking into account their particular skills and capabilities. Unless your rules say otherwise, you do not have to have any particular qualifications to be a secretary. But you do need to use whatever skills and experience you have for the benefit of the organisation.

This duty includes things such as:

- knowing the organisation's financial position and making sure the committee takes action if there is a concern about whether debts can be paid on time. Every member of the committee must do this, rather than leaving it entirely to the treasurer.

Important:

A key part of the duty to exercise care, diligence and skill is a duty to prevent the organisation from trading while "insolvent" (that is, when the organisation cannot pay its debts when they fall due). This "sub-duty" arises as a result of the application of the *Corporations Act 2001* (Cth) in the AIR Act.

- attending and participating in meetings
- following up action items between meetings
- keeping the association's records up to date, and
- reporting to CAV accurately and on time.

If a secretary does not have the required skill or knowledge on a particular matter, this duty means that they need to seek help from someone who does. For example, a secretary may need to ask the organisation's treasurer or auditor for help in understanding the organisation's financial position.

Business judgements

The law recognises that running an organisation involves making informed decisions on behalf of the organisation. These decisions will not always, with the benefit of hindsight, benefit the organisation, but this does not mean the person making the decision has breached a duty owed to the organisation. As a result, the AIR Act has a 'business judgment' defence to claims that a secretary has failed to meet the standard of care and diligence required under section 84(1) of the AIR Act (see section 84(2) and (3)).

This defence can be relied on where the secretary:

- makes a decision or undertakes a course of action honestly and for a proper purpose
- does not have a material interest in the subject matter of the decision
- informs themselves about the subject matter of the decision, and
- rationally believes the decision or course of action is in the best interests of the association (even if in hindsight the decision was not the best choice for the organisation).

Note:

The 'business judgment' rule only applies as a defence to the duty of care and diligence in the AIR Act. It cannot be relied on as a defence for any of the other statutory duties in the AIR Act discussed above.

Relying on information and advice

The AIR Act contains a defence to claims that a secretary has breached any of the statutory duties if the secretary has reasonably relied on information or advice.

When determining what will be reasonable, the AIR Act "presumes" that a number of sources of information or advice can be reasonably relied upon – as long as the secretary relies on them in good faith and independently assesses their merit.

The presumption applies to information or advice received from:

- employees of the association who the secretary reasonably believes are reliable and competent
- professional advisors where the subject matter of the information or advice falls within their expertise
- another office holder acting within their authority, and
- a sub-committee of the association, provided that the secretary is not a member of the sub-committee.

3. What happens if a secretary does not comply with their legal duties?

CAV's powers to investigate and intervene

If there are allegations that the secretary (and/or others involved in running the organisation) are not complying with their legal duties, or that the organisation is in breach of its legal obligations, CAV may decide to investigate the organisation or send a letter requesting compliance. CAV has advised that, before doing so, it would usually need to be informed of the problem by a committee member, or a member of the organisation. CAV may then:

- appoint an inspector to investigate the organisation's activities, and/or
- in serious cases (for example, gross mismanagement by the committee), apply to the Magistrates' Court for a statutory manager to be appointed to take over the running of the organisation.

In some circumstances, CAV can wind up an organisation by either:

- certifying that particular matters have occurred (set out in section 127 of the AIR Act), or
- applying to the Supreme Court to wind up the organisation (see section 126 of the AIR Act).

In either case there is a procedure that must be followed, including giving notice to the organisation. If your organisation receives such notice (or correspondence indicating that CAV or another person intends to take action to wind up your organisation), you should seek legal advice urgently, and may be able to oppose this action.

Consequences of a breach of duty under the AIR Act

It is an offence under the AIR Act for an office holder (including a secretary) to fail to comply with any of their statutory duties, and a court may order them to pay a penalty. The penalties vary, but they are significant: up to \$20,000.

In addition, if the secretary breaches their duties under AIR Act in a way that is "knowing" or "reckless" (see above [2. What are the legal duties of a secretary?](#)) a court may also order them to pay compensation to the organisation (section 83(5) of the AIR Act). This could result in very serious outcomes for a secretary.

Consequences of breach of duty under judge-made law

If a secretary is in serious breach of their duties under judge-made law, they may be taken to court (sued) by the organisation and may have to pay compensation for any loss or damage they have caused.

Do penalties apply if the secretary is not a member of the committee?

As mentioned in Part 1, a secretary is defined as an “office holder” and therefore, even if they are not on the committee, the statutory duties and penalties under the AIR Act apply to them (except for the Conflict of Interest provisions, if a secretary is not on the committee).

The duties under judge-made law apply where someone has a “fiduciary duty” to the organisation - a secretary who is not on the committee and does not take part in making governance decisions for the organisation would probably not be covered. However, it will depend on the circumstances - sometimes a person who is not “technically” on the committee may need to comply with common law duties. For more information, see Not-for-profit Law’s Guide to Legal Duties of Committee Members at www.nfplaw.org.au/members.

4. Does a secretary have power to act on behalf of the organisation?

The AIR Act gives the secretary certain express powers to act on behalf of the organisation. Specifically, the secretary can:

- execute any contract or other document to bind the organisation along with the signature of a committee member (see section 38 of the AIR Act), and
- authenticate any document or proceeding on behalf of the organisation (see section 37).

The secretary is acting on behalf of the organisation when they sign statements and forms and submit them to CAV as part of their external reporting tasks. For more information, see [Part 8: Reporting to Consumer Affairs Victoria](#) in this Guide.

Additionally, the AIR Act allows an incorporated association to appoint a person to execute a deed on its behalf either generally or in specific circumstances (section 39). A deed is a particular type of legally binding document similar to a contract and is required in some situations, such as for a transfer of land. Associations can also give “express” or “implied” authority to a person to make, vary or discharge a contract in the name of (or on behalf of) the organisation (section 41). If appropriate, the committee may decide to give this authority to the secretary.

These types of authority are set out in the table below, with examples.

Table 1: Express and implied authority

Authority	Explanation	Example / comment
“Express” authority	Express authority is when the committee has given the secretary direct instructions. In substantial or important matters, the secretary should only enter into a contract (or legally bind the organisation) on express authority of the committee.	An example of express authority would be where the committee passes a resolution authorising the secretary to sign a building contract for a new kitchen area in the organisation’s club house.
“Implied” authority	Implied authority to act on behalf of the organisation is a less precise source of authority. However under judge-made law, a secretary has implied authority to do all the things a secretary in such a position would customarily (ordinarily) do.	A secretary of a multi-million dollar sporting club with poker machines will have greater implied authority (customary power) than the secretary of a newly incorporated tiddly-winks club with seven members and a \$10 bank balance.
	A secretary generally has implied authority to legally bind the organisation in: <ul style="list-style-type: none"> • matters incidental to their duties, and • matters incidental to their express authority. 	<p>Matters incidental to a secretary’s duties might include:</p> <ul style="list-style-type: none"> • buying minute books • printing the organisation’s rules, and • buying paper for notices of meetings. <p>Matters incidental to express authority might include:</p> <ul style="list-style-type: none"> • organising to pay GST and insurance after having been expressly authorised by the committee to buy an expensive piece of equipment for the organisation.

5. When is a secretary personally liable for the debts and liabilities of the organisation?

As a general rule, the secretary is not personally liable for the debts and liabilities of the organisation, including any costs incurred in winding up the organisation, unless the association’s rules say otherwise. The same applies to members of the committee and members of the incorporated association (section 52(1) of the AIR Act).

However, if a secretary has specifically accepted personal liability (for example, if they have given a personal guarantee for a loan by the organisation), the secretary will be liable for those particular debts.

Remember that a secretary can be personally liable for a breach of duty (see above, [2. What are the legal duties of a secretary?](#)), and in some circumstances can be ordered to pay compensation.

Further information

Not-for-profit Law resources

The Not-for-profit Law web portal contains a variety of resources and information sheets for community organisations – go to www.nfplaw.org.au.

- See www.nfplaw.org.au/people, and download Fact sheet: “Duties of committee of management members in Victorian incorporated associations”.

Legislation

The [Associations Incorporation Act Reform Act 2012 \(Vic\)](#) is the legislation that regulates incorporated associations in Victoria.

The [Associations Incorporation Reform Regulations 2012 \(Vic\)](#) contain additional requirements for incorporated associations in Victoria.

Government

The Consumer Affairs Victoria website contains a variety of online resources, including online access for incorporated associations. See www.consumer.vic.gov.au/clubs-and-not-for-profits/incorporated-associations

Other links

See Part 1: The Association in a Nutshell in this Guide for links to other organisations and online resources to assist you and your organisation.

©2009 - 2014 Justice Connect

You may download, display, print and reproduce this material for your **personal use**, or **non-commercial use within your not-for-profit organisation**, so long as you attribute Justice Connect as author and retain this and other copyright notices. You may not modify the Guide. Apart from any use permitted under the *Copyright Act 1968* (Cth), all other rights are reserved.

To request permission from Justice Connect to use this material, contact Justice Connect at PO Box 16013, Collins Street West, Melbourne 8007, or email nfplaw@justiceconnect.org.au

Tool 1: Main tasks of a secretary – meetings

What does the secretary do?	Relevant section / role	Tips or comments
Set a date for any meeting of the organisation's members or committee, and gather relevant materials	See items 17 & 19 of Schedule 1 of <i>Associations Incorporation Reform Act 2012</i> (Vic) (AIR Act). Your organisation's rules may set out details of the frequency of meetings: see, for example model rule 53 (in Schedule 4 of <i>Associations Incorporation Reform Regulations 2012</i> (Vic)).	The secretary will usually call meetings in consultation with committee members and in accordance with the AIR Act and rules. It is common practice for the secretary to do the following before each meeting: <ul style="list-style-type: none"> • prepare the "notice of meeting" and the agenda in consultation with the chairperson • check the minutes of the last meeting for any items of "business arising" • arrange correspondence and summarise longer letters • coordinate any reports to be presented at a meeting (for example, reports from sub-committees and treasurer) • confirm arrangements for any visitors or guest speakers, and • arrange the meeting venue.
Send out notices of the meetings	See item 19 of Schedule 1 of AIR Act; and see, for example, model rule 74.	The secretary must check the organisation's rules for when meetings are to occur. See also Part 6: Special General Meetings in this Guide for more information about notices for meetings.
Organise the annual general meeting (AGM), including working with the treasurer to ensure the financial report is ready to be presented to the organisation's members	Section 63 and Part 7 of AIR Act; and see, for example, model rule 30.	The AIR Act specifies the timing of AGMs. See Part 5: Annual General Meetings in this Guide. The AIR Act also sets out exactly what financial matters must be reported on at the AGM. See also Part 8: Reporting to Consumer Affairs Victoria in this Guide.
If proxies are allowed at meetings of members, receive proxy notices.	See item 18 of Schedule 1 of AIR Act; and see, for example, model rule 34.	The secretary must check the rules to see if proxies are allowed, and who can act as proxy (commonly, only another member of the organisation can act as proxy). Proxies should be appointed in accordance with any requirements in the rules. See Part 6: Special General Meetings in the Guide.
Take the minutes (or arrange for someone else to take them) and keep them in a safe place	See item 14 of Schedule 1 of the AIR Act, and see, for example, model rules 41 and 66.	Keeping accurate minutes is one of the key responsibilities of the secretary — see Part 6: Special General Meetings in this Guide.

Tool 2: Main tasks of a secretary – membership

What does the secretary do?	Relevant section / role	Tips or comments
Receive applications for membership of the organisation (and notices of member resignations)	See section 51(2) of <i>Associations Incorporation Reform Act 2012 (Vic) (AIR Act)</i> , and see, for example, model rule 9.	<p>The secretary usually advises the committee of applications, notifies successful applicants in writing, and enters relevant details in the members' register.</p> <p>The secretary also receives notices of resignation and records details in the members' register.</p>
Keep and maintain the members register	See section 56 of AIR Act, and see, for example, model rule 18.	<p>Keeping the members' register up to date is a core part of the secretary's role. The register sets out information about members of the organisation. For more information, see Part 4: Registers, Records and Official Documents in this Guide.</p> <p>The secretary should review the members' register (especially before the annual general meeting) to check whether members are up to date with their membership fees and have voting rights.</p>
Receive, assess and decide on requests from members to restrict their personal information held on the members register	See section 59 of AIR Act	<p>Where a member requests that access to their personal information on the members' register be restricted, the secretary must restrict the information if satisfied there are "special circumstances".</p> <p>The secretary should consider having a policy on such requests, including what they consider 'special circumstances' to be.</p> <p>The secretary also has an obligation to pass on to a member who has had their personal information restricted material from another member that relates to the management, activities or purposes of the association. (In a way, the secretary becomes the "mail box" for members whose personal details have been restricted.)</p>
Keep and maintain relevant documents of the organisation (such as financial statements and contracts) and make them available for inspection by any member on (reasonable) request where the disclosure does not breach a law. The model rules contain a further restriction, that	See items 11 and 13 of Schedule 1 of AIR Act, and see, for example, model rule 75.	The secretary usually handles any requests by members to inspect the organisation's "relevant documents". For more information, see Part 4: Registers, Records and Official Documents in this Guide.

relevant documents will not be disclosed where to do so would be prejudicial to the organisation.

<p>Prepare and keep accurate minutes of general meetings of the organisation and make them available for inspection by any member on (reasonable) request</p>	<p>See section 53 and items 14 & 15 of Schedule 1 of AIR Act</p>
---	--

<p>Keep an up to date copy of the rules and members' register (with entries appropriately suppressed where validly requested by a member) and make them available for inspection by any member on (reasonable) request.</p>	<p>See sections 53 and 57 of AIR Act.</p>	<p>At the request of a member, an incorporated association must make a copy of its rules and members' register available for inspection at any reasonable time by a member. A member may also request to obtain a copy of the rules. The secretary usually handles such requests.</p> <p>If you are unsure what your organisation's rules are, see Part 1: The Association in a Nutshell in this Guide.</p> <p>Note that under the AIR Act, members can request that their details on the member's register be suppressed and these details should not be released for inspection.</p>
---	---	--

Tool 3: Main tasks of a secretary – record keeping

What does the secretary do?	Relevant section / role	Tips or comments
Keep, for at least seven years, originals of any documents the organisation has lodged with CAV.	Section 201 of <i>Associations Incorporation Reform Act 2012</i> (Vic) (AIR Act).	Keeping correspondence and other documents relating to the organisation is relatively straightforward in small organisations.
Keep, for at least seven years, financial statements submitted to members at the annual general meeting and certificates of a member of the committee	Section 105 of AIR Act.	However, in larger organisations the paid staff and treasurer will probably keep custody of many of the organisation's documents. In such cases, the secretary would fulfil their functions by maintaining a system of control to ensure all of the organisation's correspondence is available to them on request.
Keep custody of all books, documents and securities of the organisation	See item 11 of Schedule 1 of AIR Act and see, for example, model rule 75 (in Schedule 4 of <i>Associations Incorporation Reform Regulations 2012</i> (Vic)).	See also Part 4: Registers, Records and Official Documents in this Guide.
Keep custody of the organisation's common seal (if any)	See item 12 of Schedule 1 of AIR Act.	
Return documents when no longer the secretary (especially any original documents)	Section 88 of AIR Act.	A secretary has access to documents of the organisation because of the secretarial and external reporting tasks they perform. When they are no longer the secretary, they must return the documents to the organisation's committee within 28 days. For more information about the secretary's external reporting functions, see Part 8: Reporting to Consumer Affairs Victoria .



Address: PO Box 16013, Collins Street West, Melbourne 8007

Phone: 03 8636 4400

Fax: 03 8636 4455

Email: nfplaw@justiceconnect.org.au

Information Hub: www.nfplaw.org.au

Not-for-profit Law Home: www.justiceconnect.org.au/nfplaw

Twitter: www.twitter.com/nfp_law

Produced with financial support from
Consumer Affairs Victoria



Department of
Justice



Produced with financial support from
the Office for the Community Sector



Department of Planning
and Community Development