

# Positions in an incorporated association

Legal information for Queensland community organisations

## This fact sheet covers:

---

- ▶ what is a committee?
  - ▶ governance
  - ▶ positions in a committee, and
  - ▶ duties of committee members.
- 

**If you are starting an incorporated association in Queensland, or are new to working with an incorporated association, it's a good idea to understand who runs the association and the legal duties that apply.**

If you don't fully understand how your incorporated association works or what role different people play in its operation, it can often be useful to step back and look at the association as a whole.

This fact sheet provides an introduction to the key parts of, and people involved in, an association incorporated in Queensland.

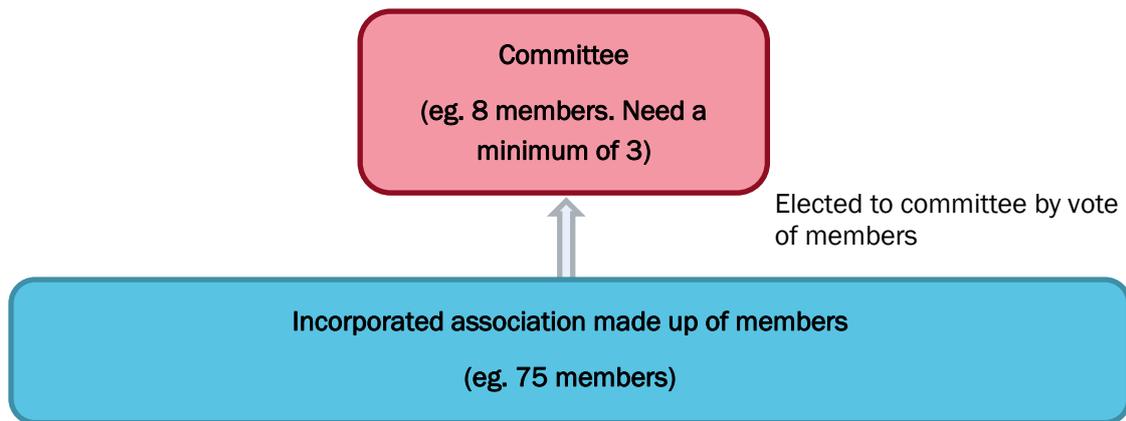
## What is a committee?

---

Managing an incorporated association is the responsibility of an elected committee. Sometimes other names are used for this governing body, such as the “board”, “council”, or “management committee”.

The committee is made up of those people who have the power to manage the association under the rules of the association. In QLD, the minimum number of committee members required by law is three. In many cases, the members of the organisation elect a small group of people, who are themselves members of the association, to be on the committee (see Diagram 1 below). Note, a person is not required to be a member of the association to be elected to the committee by law, but it is reasonably common for an association's rules (commonly known as a ‘constitution’) to make membership of the association part of the eligibility criteria for becoming a member of the committee.

Diagram 1: Electing a committee (example only)



In some organisations, all the members of the incorporated association are also members of the committee. This is not against the law – it often happens in small associations or when the organisation first begins.

When all the members of an association are also on the committee, it can sometimes seem strange to separate the role of a member of the association versus the role of a member of the committee. Further confusion can arise if the same people are also involved in actually operating the association (either employed or on a volunteer basis). However, it is important to understand the separate (legal) role of the committee.

## Governance - how the committee differs from the “managers” of an association

---

Good governance practices are crucial to an association's ability to function, to achieve its objects, and to comply with all of its legal, ethical and operational requirements. Community associations, especially small associations, often struggle to distinguish between:

- the role and responsibility of an association's committee (to make rules and set strategies, that is to govern the association), and
- the role and responsibility of the staff, “organisers” or key volunteers that are not on the committee (to “run things” that is to operate the association).

While these two functions may be performed by the same group of people, distinguishing between issues of strategic governance and day-to-day management is important, as particular legal duties apply to the governance, but not the operation, of associations.

The 'governance' of an association is the responsibility of the committee, and generally refers to the direction and control of an association. This includes overseeing the affairs of the incorporated association and making sure its legal obligations are met.

Members of the committee of Queensland incorporated associations have particular legal duties under the *Queensland Associations Incorporation Act 1981 (QLD) (the Act)*, *Associations Incorporation Regulation 1999 (QLD) (the Regulation)*, and judge-made law, such as the duty of due care, skill and diligence, the duty to act in good faith and the duty to ensure that the association does not trade while insolvent. These are discussed further below. The Office of Fair Trading is responsible for enforcing these laws.

For Queensland incorporated associations, committee members' functions under the Act include:

- ensuring an annual general meeting is held within six months of the end of the association's financial year
- ensuring the association's financial affairs are audited or verified annually and submitted to members at the annual general meeting
- overseeing the association's financial affairs. This includes making sure the association does not continue to operate if it is insolvent, and
- appointing a new secretary within 1 month, if the position becomes vacant.

#### NOTE

If the association is also registered as a charity with the Australian Charities and Not-for-profits Commission (**ACNC**) it will also need to comply with the requirements associated with being a charity. For further information on record keeping requirements for charities go to the Not-for-profit Law Information Hub page on Record Keeping at [www.nfplaw.org.au/recordkeeping](http://www.nfplaw.org.au/recordkeeping).



In larger organisations, different people may be 'managers' (such as a CEO, finance manager or operations manager), and in smaller organisations, key volunteers may be responsible for making decisions about the day-to-day running of the association, based on the strategy decided by the committee. Normally these people do not need to comply with the legal duties that the committee must comply with, but occasionally, 'managers' or 'key volunteers' also need to comply with legal duties. This occurs where they are someone who takes part in making key decisions that affect the operations of an association or who is influential in the affairs (financial or otherwise) of the association (see discussion of Office Holders below).

## Are there special positions on the committee?

Commonly, there are a number of special positions on a committee –one of which is usually the secretary. The people who take on positions on the committee are sometimes called “officers” or “office bearers” or “the executive” of the association. The titles of positions within a committee will vary between associations, however some common positions and their traditional roles are explained briefly below:

- the president ( or chairperson) runs meetings and usually represents the organisation at public events

- the vice-president (or deputy chairperson) takes on the role of the chairperson when that person is not available
- the treasurer (or financial officer) deals with the financial affairs of the organisation, though note the financial affairs of the organisation is the responsibility of all committee members, and
- the secretary reports to Office of Fair Trading, organises meetings, deals with documents and maintains records of the association.

The committee may have other members that do not hold special positions. These are sometimes called “management committee members”. These members must also meet the duties that apply to members of the committee.

## Who is the secretary?

The secretary of an incorporated association in Queensland has responsibilities under the Act and Regulation for ensuring that forms and documents are submitted to Office of Fair Trading, and is the primary contact person for the organisation.

The secretary is also responsible for ensuring that the administrative functions of organising meetings and minutes, handling membership and maintaining important documents and registers of the organisation are fulfilled.

The secretary must be a resident of Queensland or living within 65km of the Queensland border. The secretary does not need to be a member of the association or management committee (although they can be).

A person can be appointed the secretary of a Queensland incorporation in the following circumstances:

- if the person is a member of the association, by being elected by the association
- if the person is a member of the management committee of the association, by being appointed by the committee, or
- whether or not the person is a member of the association, they can be appointed by the management committee of the incorporated association.

## “Management committee members” and their duties

---

The management committee of the association consists of the following:

- a president
- a treasurer, and
- any other members the association members elect at a general meeting.

The president usually chairs the management committee and plays a major role in the association's meetings. The president presides as chairperson at the meeting. Another member can be nominated as chair if the president cannot attend the meeting.

The treasurer leads in financial management of the association, although finances are ultimately the responsibility of the whole management committee. The treasurer keeps and maintains financial records and documentation for payments, deposit, cheque books, and petty cash balance etc.

The management committee is responsible for the general control and management of the affairs of the association. Their duties and responsibilities include:

- controlling the business and operations of the association
- ensuring that the association complies with its rules for meetings
- taking all reasonable steps to ensure the association complies with the regulations
- considering applications for association membership
- acting in good faith in the interests of the association and for a proper purpose
- using reasonable care and skill in the performance of their duties, and
- avoiding being involved in decisions in which they have a personal interest.

There are also duties under the general (judge made) law that have been in existence for many years. The substance of these common law duties has not changed.

The duties of committee members of incorporated associations would also include complying with the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the corresponding regulations (including the Governance Standards) if the association is registered as a charity with the ACNC.

## RELATED RESOURCES

A more comprehensive list of duties and responsibilities can be found in the Queensland Government's *Smart Business Guide for Incorporated Associations*, which can be accessed [here](#).

If your association is a registered charity, committee members must comply with the ACNC Governance Standards. For further information about the ACNC Governance Standards see the ACNC's publication *Governance for Good*, a guide for charity board members available here: [www.acnc.gov.au/ACNC/Edu/Tools/GFG/GFG\\_Intro.aspx](http://www.acnc.gov.au/ACNC/Edu/Tools/GFG/GFG_Intro.aspx) and Part E of *Not-for-profit Law's Guide to the Legal Duties of Not-for-Profit Committee Members* on the Duties page of the Information Hub at [www.nfplaw.org.au/governance](http://www.nfplaw.org.au/governance).



# Resources

---

## Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub ([www.nfplaw.org.au](http://www.nfplaw.org.au)) has information on the following related topics:

➤ Getting started - [www.nfplaw.org.au/gettingstarted](http://www.nfplaw.org.au/gettingstarted)

This page includes information about setting up a not-for-profit organisation

➤ Governance - [www.nfplaw.org.au/governance](http://www.nfplaw.org.au/governance)

This page contains information about governing a not-for-profit organisation, including an incorporated association.

➤ Members - [www.nfplaw.org.au/members](http://www.nfplaw.org.au/members)

This page contains information about the rights and obligations of members of a not-for-profit organisation, including an incorporated association.

➤ Risk and insurance - [www.nfplaw.org.au/riskinsurance](http://www.nfplaw.org.au/riskinsurance)

This page provides an overview of the risk issues the committee of a Queensland incorporated association may consider when governing the organisation.

➤ Holding meetings - [www.nfplaw.org.au/meetings](http://www.nfplaw.org.au/meetings)

This page contains further information about how the meetings of an incorporated association, including committee meetings, should run.

## Legislation

➤ [Associations Incorporation Act 1981 \(Old\)](#)

➤ [Associations Incorporation Regulation 1999 \(Old\)](#)

## Related Resources

➤ [Queensland Government: Incorporated association management committee](#)

This page on the Queensland Government website outlines what a committee of a Queensland incorporated association does and who can be on the committee.

A Not-for-profit Law Information Hub resource. Access more resources at [www.nfplaw.org.au](http://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](http://www.nfplaw.org.au)

© 2017 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 this resource. 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](mailto:nfplaw@justiceconnect.org.au).