



DRAGON BOAT WESTERN AUSTRALIA

龙舟西澳大利亚

Legal obligations of club committee members

The [Associations Incorporation Act \(1987\)](#) sets out basic requirements with which *all* associations incorporated in WA must comply. The Act may be downloaded from the State Law Publisher at www.slp.wa.gov.au.

Committee members have special responsibilities under the Act, both as individuals and as part of the group. If a member of a committee of an incorporated association fails to take all reasonable steps to ensure the association complies with its obligations under the Act, the member commits an offence and is liable to a *maximum fine of \$500*.

Responsibilities under the provisions of the Act

Key responsibilities are listed below. The relevant sections of the Act are included in parentheses.

- **Compliance with Act** – committee members have a personal obligation to comply with the requirements of the Act. This means that *all* committee members **MUST** do what is reasonable to make sure that compliance with the Act is achieved.
- **Declare conflict of interest** – committee members must declare any pecuniary (financial) interest in contracts being considered by the committee and abstain from any deliberations and voting regarding the matter (s.21 & 22).
- **Hold Annual General Meetings (AGM)** – annual general meetings must be convened within 4 months of the end of an association's financial year (s.23).
- **Follow proper process for special resolutions** – special resolutions are required to change the rules or voluntarily wind up. The committee must ensure a notice to members has been distributed, a general meeting is held (can be AGM), and a vote of at least three-quarters of those entitled to vote is conducted (s.24).
- **Maintain financial records** – financial records must correctly record and explain the financial transactions and position of the club. These records must be such that true and fair financial audits and reports may be prepared (s.25).
- **Submit financial reports** – accounts showing the financial position of the association must be submitted to members at the annual general meeting (s.26).
- **Maintain a register** – a register of members and their residential or postal addresses must be created and maintained. This register must be made available for any member to inspect and copy, *however* the register must *not* be removed for inspection or copying (s.27). For more information, see the following section 'Further information and guidance'.

- **Maintain and permit access to rules** – a copy of the current rules (Constitution) must be maintained and made available upon request to any member to inspect and copy, *however* the rules must *not* be removed for inspection or copying (s.28). For more information, see the following section ‘Further information and guidance’.
- **Maintain list of office bearers** – a list of committee office bearers and trustees must be created and maintained and must include their residential or postal addresses and available on request by any member to inspect and copy, *however* the list must *not* be removed for inspection or copying (s.29). For more information, see the following section ‘Further information and guidance’.

Requirements of membership with DBWA

As a member of DBWA, a club must accept the Objects and Aims of the DBWA Constitution. In accepting these Objects and Aims, it is generally accepted that club committees will endeavor to further these objectives within their own clubs.

It is expected that club committees will make an effort to develop and promote the *sport* of dragon boating while encouraging a healthy social culture. Club committees need to ensure the sporting aspects of dragon boating are developed and promoted. Although this may seem obvious, developing a sport is hard work and it is very easy for a club to become complacent and unwittingly slip into a situation where the main benefits from the activity are purely social, not sporting.

The social side of a club is very important and must be encouraged and maintained, however a club’s existence should not be purely for social reasons as it is a *sports* club. Club committees need to ensure the needs of both social and competitive members are met as best as possible. This may mean revising the way the club operates, for example large clubs may have separate ‘competitive’ and ‘social’ training times, whereas small clubs may make a commitment to run membership drives to get more paddlers, or supporting their competitive paddlers by entering regattas. Achieving a balance between sporting and social requirements is not easy, but committees need to strive to support the needs of all members, not just one interest group.

Examples of the Objects and Aims in the DBWA Constitution and a club committee might uphold those objects and aims are listed in Table 1.

Table 1 Objects and Aims of DBWA Constitution and examples for clubs

Objects/Aim of DBWA Constitution	Examples of how club might uphold Objects/Aims
Promote good fellowship and social interaction among dragon boat clubs	Participation in DBWA regattas Participation in DBWA sanctioned events (e.g. winter marathons)
Promote, be responsible for, manage, develop and encourage dragon boat racing, including events and regattas, in Western Australia, and to maintain the cultural traditions of the sport	Promote dragon boating at a club level, such as membership drives and 'come and try' days Encourage dragon boat racing by participation in DBWA regattas Organise and hold events, such as marathon events Teach club members about the meaning of the dotting of the eye ceremony and other cultural traditions
Ensure Risk Management and Duty of Care and Equal Opportunity policies exist for all Members	Provide new members with information about where to obtain copies of policies Place copies of policies on club website, or put a link on website which takes the reader to the policy section of the DBWA website (a link may be preferable as it ensure the reader has access to the current policies)
Communicate rules for dragon boat racing in Western Australia	Ensure club members know at least the basic rules for dragon boat racing, such as how to load a boat, rules for drummers (e.g. when to put up hand, when to drum), what to do if emergency help is required during a race, etc. Include link on club website to AusDBF Competition Regulations and Rules of Racing
Donate and promote donations for registered charities or charitable organisations from time to time	Clubs may decide to contribute a portion of fundraising money to a charity Gold coin donations at a 'come and try' day could be collected for charity
Communicate issues of interests to Members	Timely distribution of emails and other information from DBWA to club members Encourage club members to sign up as a member of the DBWA website to receive newsletters directly

Further information and guidance

Register of members and list of office bearers

The register of members and the list of office bearers must be made available for any member to inspect and copy, *however* these registers must *not* be removed for inspection or copying. What this means is that a member may read the register, or take a photo of it, or copy it by hand, but they are not allowed to remove the document from the place where it is being viewed, e.g. to go elsewhere and make a photocopy. It is up to the discretion of the committee how and where the register is viewed; the member requesting the register does not have the final say in this matter. The committee, however, must ensure the register is reasonably accessible, for example, if a committee member has the register at their home it is expected they will set a viewing time that is suitable for both themselves and the member who has requested the register.

It is important to understand that legislation states the register of members *must* be made available to members upon request and there are no privacy laws that overrule this requirement. This does not mean, however, that discretion with regard to privacy should not be used, i.e. avoid posting the register of members and list of office bearers on the club website or social media sites, etc. These documents are to be made available *only* to members and therefore are not to be made publically available. If any club member has concerns about their home address being listed on the register, they may have their post office address listed on the register, if they have one.

The Federal Office of the Privacy Commissioner may be contacted if one has concerns generally about members' privacy.

Financial records

It is important to ensure accurate financial records are maintained. The financial position of the association *must* be presented to the members at the AGM. It is strongly suggested that club committees present monthly, or at least quarterly, financial reports at the committee meetings. This ensures the entire committee is kept informed of the financial aspects of the association. This is important as *all* committee members must ensure the association is compliant with the Act and can do this only if they are across all issues, including financial ones.

It is good practice to ensure there are two signatories on all club association bank accounts (e.g. the signatures of two committee are required on cheques and electronic fund transfers).

Proxy votes

A club may only accept proxy votes if proxy votes are allowed by its Constitution. The Constitution must actually specify that proxies are permitted, e.g. "A vote may be by proxy." If this is not clearly specified, then only members who are physically present at the meeting (including AGMs) may cast a vote.

If proxies are permitted by a club constitution then it can generally be taken that these proxy votes can also be used to count towards a quorum.

Changing the Constitution (rules)

Most associations have their rules written in the form of a Constitution. Changing the Constitution, or rules, of an association requires certain processes to be followed. If major changes are anticipated it is good practice to prepare a draft of the new or revised Constitution and put it out to the members for stakeholder comments. A stakeholder review will normally take several months to conduct and often requires the draft to be revised several times. Committees wanting to revise their club Constitution are

encouraged to seek assistance from someone who has experience in writing or revising Constitutions or regulations and understand the Department of Commerce (DoCEP) process for having a revised Constitution approved. DBWA may be contacted for assistance, if required.

It should be noted that the official (legal) copy of the rules is the copy that was lodged with DoCEP, so it is important to ensure no changes are made to the Constitution without going through the proper approval Minutes

Although not a specific requirement under the Act, it is very useful to keep minutes of all association meetings, whether general, committee or sub-committee meetings. These minutes can provide protection for individuals who act on the decisions of the association by providing evidence that they acted on the association's directions. In particular this could assist individual volunteers gain protection under the Volunteers (Protection from Liability) Act 2002, which transfers liability for a volunteer's actions to the association in certain circumstances. process.

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It is good practice to make the minutes of committee meetings available to the members. There are no set requirements, but the distribution of minutes should reflect the needs and wants of the membership. For example, some clubs may make minutes available on request, while other clubs may email minutes to members or post the documents on the club website. Making the minutes available shows transparency with regard to decision making and allows members to have a better understanding of the issues being managed by the committee.

Other resources

For more information about running an association, the Department of Commerce website has helpful information, including a document called *INC. A Guide for Incorporated Associations in Western Australia*. This document provides guidance about various aspects of managing an association, including conducting meetings, employing staff and engaging volunteers, and other relevant topics.

http://www.commerce.wa.gov.au/ConsumerProtection/Content/Not_for_profit/Not_for_profit.html