Navigating the Maze

Understanding & Managing Accountability & Compliance
Acknowledgements

Navigating the Maze was produced with the guidance of a reference group comprising:

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ANHLC would like to thank the reference group members for their efforts in finding and sharing useful resources and for their informed and constructive contributions to the document.

Resources

ANHLC holds a range of resources relevant to community management and governance. A number of these resources were used in the development of Navigating the Maze.

Navigating the Maze is a companion resource to the ANHLC publication Guide to Creating a Financial Systems & Procedures Manual. Together these two Neighbourhood House specific documents provide a strong foundation for developing good management and governance practices for committee and staff members.

The VCOSS publication Manuals for Community Organisations: Community Management (2007) was an important reference during the development of Navigating the Maze. It is one of a set of manuals VCOSS is producing which provide a comprehensive guide to operating a community organisation.

Jane De Wildt of ACFE provided the material on Intellectual Property

The Association of Neighbourhood Houses and Learning Centres acknowledges the funding and support of the Adult and Further Education Board and the Department of Planning and Community Development which made the production of this resource possible.

Navigating the Maze: Understanding & Managing Accountability & Compliance

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# Navigating the Maze

Understanding & Managing Accountability & Compliance

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DISCLAIMER

Laws are constantly changing and new areas of regulation are frequently being introduced. While the authors and publisher have attempted to provide up-to-date information, some content may quickly become out of date.

In most instances, reference is made to agencies that administer law in the topic areas discussed. To confirm that the information provided in the book is current, it is recommended that you contact the relevant agency.

This book is intended as a general guide and is not intended to give advice on any particular matter. Readers should not act on the basis of information in this book without obtaining advice from an appropriate source.

ANHLC accepts no responsibility for any consequences that may result from actions taken by any party in relation to the information provided herein or any omission of information.
Introduction

Navigating the Maze is for Victorian Neighbourhood House and Learning Centre staff and management committee members. It aims to provide a guide to understanding and managing a range of compliance and accountability requirements that are typical for most Neighbourhood Houses and Learning Centres.

It is important that both staff and committee members are involved in the monitoring processes. Staff members are responsible for the daily work involved in meeting all accountability requirements. However it is vital that the committee has a broad understanding of the scope of the compliance and accountability requirements and the tasks and timelines involved.

Legal Entities outlines the main obligations involved in becoming and maintaining the legal entity of an incorporated association or co-operative. Being a legal entity is the basic pre-requisite for organisations applying for public funds.

Statutory Regulation and Compliance offers an overview of the most common items of legislation and regulation that can apply to Neighbourhood Houses and Learning Centres. These usually apply to particular aspects of the organisation’s operations such as employment of staff, information privacy, food handling etc.

Funding & Service Agreements and Contracts concentrates specifically on the main terms & conditions of the major funding & service agreements and contracts entered into by Neighbourhood Houses and Learning Centres (NHS&LCs). Typically, Houses and Centres rely on multiple funding sources including the Adult Community & Further Education Board (ACFE) via Department of Planning and Community Development (DPCD), the Neighbourhood Houses Coordination Program (NHCP) via DPCD, the Department of Human Services (DHS) and Local Government.

Examples of Accountability Requirements is a brief overview of the accountability requirements of some of the most common funding bodies and programs accessed by Neighbourhood Houses and Learning Centres.

Building an Accountability & Compliance Tool for your Organisation is a practical guide to creating a funding and service agreement accountability and compliance tool tailored to your organisation’s circumstances.

Navigating the Maze, accompanied by your tailored Accountability and Compliance Tool, is a valuable part of your induction kit for new staff members and management committee members. When staff with management responsibility or experienced committee members leave your organisation, this resource will help incoming staff or committee members meet the organisation’s accountability and compliance requirements in an informed and timely way.
Legal Entities

Before a funding body can enter into a funding & service agreement or contract to fund an organisation, it must ensure that the organisation is a legal entity established under either an Act of Parliament or other relevant legislative framework.

Most Neighbourhood Houses and Learning Centres have the legal entity status of Incorporated Association. A few have the status of Co-operative. The Incorporated Association structure is governed by the Associations Incorporations Act 1981, and the Co-operative structure is governed by the Co-operatives Act 1996.

This section is based on information from the Consumer Affairs Victoria website. For more information about the Association Incorporations Act or the Co-operatives Act contact Consumer Affairs Victoria 1300 558 181 or www.consumer.vic.gov.au (see Business names and structures) or visit the Victorian Consumer and Business Centre at 113 Exhibition St, Melbourne, on weekdays during normal business hours.

Associations Incorporations Act 1981

This Act enables many small not for profit organisations to incorporate with minimal cost. This type of legal incorporation is suited to organisations that do not fit the criteria for incorporation under the Corporations Law or Co-operatives Acts.

What is incorporation?

Incorporation is a voluntary process whereby a not-for-profit club or community group can apply to become its own ‘legal person’ (i.e. the association becomes a distinct legal entity that continues regardless of changes to its membership).

In Victoria, clubs and associations usually incorporate under the Associations Incorporation Act 1981 by applying to Consumer Affairs Victoria. This method is a simple and inexpensive process available to not-for-profit associations with at least five (5) members.

Alternative options for non-profit organisations include incorporating as:

- a company limited by guarantee under the Corporations Law.
- an Indigenous Incorporated Association under the Aboriginal Councils and Associations Act 1976 (For Indigenous Associations only: see the Office of the Registrar of Aboriginal Corporations website for more information.)

Benefits of Incorporation

Some of the advantages of incorporation include:

- Greater eligibility to apply for grants.
- Protection of the members and office holders against personal liability for debts and other legal obligations of the organisation.
• The ability to buy and sell property in the name of the organisation.
• The ability to accept gifts or bequests.
• Greater certainty and acceptability to potential contracting parties such as lenders, lessors, employees and suppliers of goods and services.
• The ability to sue and be sued in the name of the association.
• The ability to invest and borrow money.

Statutory Obligations of Incorporated Associations

Incorporating an Association under the Associations Incorporation Act 1981 gives rise to a number of important statutory obligations. Failure to comply with them may lead to prosecution or a direction from the Registrar to wind up the Association.

A summary of the main statutory obligations for Incorporated Associations:

**Constitution**
Create, adopt and maintain the organisation’s constitution

**Conduct annual general meetings**
Each calendar year, an incorporated association must hold an annual general meeting, within 5 months of the end of the association's financial year.

**Lodge annual statements**
Each year, an incorporated association must lodge an Annual Statement by Public Officer with the Registrar within one month after the annual general meeting.

**Notify the Registrar of changes to any association details**
The incorporated association must let the Registrar know and provide updated details if it:
• changes its registered address
• appoints a new Public Officer (or if the Public Officer's address changes)
• obtains an Australian Business Number (ABN)

**Maintain adequate financial records**
Every incorporated association must maintain adequate and accurate accounting records of its financial transactions.

A Prescribed Incorporated Association (i.e. one with annual gross revenue of more than $200,000 or assets in excess of $500,000) must have its accounts independently audited at the end of each financial year and retain accounting records for 7 years.

**Make copies of documents available to members on request**
An incorporated association must make the following documents available for inspection on request by its members:
• a copy of its rules
• a copy of the trust deed of any trust held on behalf of the incorporated association by a person or body other than the association.
**Include registered name in documents**
An incorporated association must ensure that its registered name and number appears in all its notices, advertisements, publications and business documents.

**Notify the Registrar of a special resolution**
An incorporated association must notify the Registrar of any special resolution to:

- change its name
- change its rules or statement of purposes
- amalgamate with another incorporated association
- wind up and distribute assets.

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**Co-operatives Act 1996**

Co-operatives are administered under The Corporations Law (which applies throughout Australia) and in Victoria the Co-operatives Act. Consumer Affairs Victoria keeps a public register of co-operatives, authorises registration and enforces the Act.

**Co-operatives**

A co-operative is an organisation concerned with providing for the needs of its members. The structure enables the individual member to benefit from economies of scale through the combined purchasing, distribution or marketing power or influence of the group.

Members generally share investment and operational risks, benefits gained, or losses incurred. A co-operative does not have a legal entity that is distinct from its membership.
Statutory Regulation and Compliance

The Committee of Management, with responsibility for the governance of a Neighbourhood House or Learning Centre and as an employer of staff, is formally and/or legally accountable to a number of organisations and subject to the requirements of a variety of acts, items of legislation, regulations and legally binding documents. Copies of many of these are available from Information Victoria 1300 366 356.

Here is a checklist of some of the major areas of compliance with organisation contact details for further information.

You do not need to know each of these documents, acts etc off by heart. However you need to have a broad understanding of the area each one concerns and be familiar with your obligations.

There may be some other compliance requirements that are particular to your House or Centre. This list covers the most common areas of compliance.

Industrial and Employment Standards

If your organisation employs staff then the committee is the employer and is obliged to comply with and keep up to date with changes in awards and agreements and other industrial legislation.

Industrial Bodies

Industrial law is complex and penalties for breaches can be severe. All employers and employees are legally bound by a range of obligations under these laws. ANHLC strongly advises membership of an appropriate industrial body in order to access professional industrial advice and support.


Organisations:

Unions for employees
Australian Services Union (community development workers, co-ordinators) 9342 3400 or 1800 133 096 or http://www.asuvic.asn.au
National Tertiary Education Union (tutors) 9254 1930 or www.nteu.org.au/vic
Liquor, Hospitality and Miscellaneous Workers (childcare workers) 9235 7777 or http://www.lhmu.org.au/vic

Employer Associations for Committees of Management
Jobs Australia 9349 3699 or 1800 060 098, or http://www.ja.com.au
ACEVIC 9315 2610 or http://www.acevic.org.au
If you are not a financial member of an employer body or union you can get basic industrial information from the Federal Department of Employment and Workplace Relations and Small Business, WorkChoices Info Line 1300 363 264 or go to www.workchoices.gov.au or the Federal Government employment and workplace relations service at www.workplace.gov.au

**Worker Payment Summaries and PAYG withholding**

**PAYG withholding**
If you have employees, you are required to withhold an amount from payments (eg wages) you make to them. You may have to withhold an amount from payments to other workers such as contractors.

You also need to withhold an amount from payments to other businesses if they don’t quote their Australian Business Number (ABN) to you on an invoice or other document if required.

You send all withheld amounts to the Tax Office. This is called ‘withholding’ and is done using the pay as you go (PAYG) withholding system.

**Worker Payment Summaries**
Payment summaries show the total payments made and the amount withheld for each worker or staff member during the financial year ending 30 June. Generally, you must give each of your staff members a payment summary by 14 July each year (or earlier if requested); and send a summary of the PAYG withholding information for your whole staff group as part of your annual reporting to the ATO.

**Relevant documents:** PAYG withholding and worker summary payment paperwork. Liability for PAYG tax depends on the employment status of the individual ie: contractor or employee. For further information about determining employment status go to the Australian Tax Office website. For a comprehensive overview of tax issues for not for profits see the Induction Package for Non Profit Administrators on the ATO website. Topics covered include:

- Income tax
- Goods and services tax
- Employees and other workers
- Fundraising
- Record keeping, administration and payment
- State/territory government taxes and duties

**Organisation:** Australian Tax Office 13 2866 or go to www.ato.gov.au click on ‘for Non Profit’ on left side of home page.

**Long Service Leave**
Long Service Leave (LSL) is a mandatory staff entitlement for most Victorian employees including many casual staff members. Your organisation must set aside money to cover the LSL liability. LSL entitlements accrue at a set rate per year for each employee.

**Organisation:** Industrial Relations Victoria www.irv.vic.gov.au go to Industrial Relations then to Long Service Leave then scroll down to A Comprehensive Guide to the Victorian Long Service Leave Act (on right hand side of page).
Superannuation

Superannuation is compulsory for all employees earning more than $450 per month including casuals and part timers. Your organisation needs to pay a set minimum level of super contribution into a super fund or pay the Superannuation Guarantee Charge to the Tax Office.

Organisations: Tax Office Superannuation Helpline 13 10 20, HESTA (health and community services super fund that covers most workers in the community sector) 1800 813 327, or any approved superannuation fund of the employees choice. Go to www.ato.gov.au click on ‘for Superannuation’ on left side of homepage.

Workers’ Compensation Insurance

Workers Compensation insurance is compulsory for all employers paying more than $7,500 in salaries.

Organisations: WorkSafe Victoria - Victorian WorkCover Authority 9641 1444, 1800 136 089. or go to www.worksafe.vic.gov.au Your WorkCover Agent or authorised insurance company.

Occupational Health and Safety

All employers are subject to the terms of the Occupational Health and Safety Act. Employers have a general obligation to provide and maintain a safe workplace which is free from risks.

Organisation: WorkSafe Victoria - Victorian WorkCover Authority 9641 1444, 1800 136 089 or www.worksafe.vic.gov.au WorkSafe Victoria provides up to 3 hours of free safety assistance to any Victorian small or medium business (up to 50 full time equivalent employees, excluding volunteers) by providing an independent health and safety consultant to assist with health and safety Check the website under 'Small Business' for information.

Equal Opportunity and Anti Discrimination

All employers are subject to the terms of the Victorian Charter of Human Rights and Responsibilities, the Equal Opportunity, Anti Discrimination Acts and the Disability Discrimination Act.


Financial Management

Australian Business Number (ABN)

The ABN is a unique number a bit like a tax file number that identifies you to the Australian Tax Office or ATO. All organisations must have an ABN in order to deal with the ATO regarding the GST, PAYG withholding and other tax related issues.

Goods and Services Tax (GST)

A GST or Goods and Services Tax of 10% applies to most goods and services consumed in Australia.

Organisations with an annual turnover of $50,000 or more and non-profit organisations with an annual turnover of $100,000 or more must register for the GST. If your turnover is below the threshold you may choose to register for GST.

Registering means you can obtain ‘input tax credits’ (tax refunds on purchases) but there are some costs to your organisation associated with GST record keeping and reporting. Not registering means not having to charge, collect and report GST on goods and services you supply, but you will be unable to claim input tax credits incurred on things that you purchase.

Relevant documents: Business Activity Statement (BAS).

Organisation: Australian Tax Office 13 2866 or go to www.ato.gov.au click on ‘for Non Profit’ on left side of home page

For a comprehensive overview of tax issues for not for profits see the Induction Package for Non Profit Administrators on the ATO website. Topics covered include:

- Income tax
- Goods and services tax
- Employees and other workers
- Fundraising
- Record keeping, administration and payment
- State/territory government taxes and duties

Accounting Standards for Non Profits

In Australia, accounting standards are determined under the Corporate Law Economic Reform Program, which came into effect on 1 January, 2000. The Financial Reporting Council (FRC) is responsible for overseeing the accounting standard setting process for the private, public and non-profit sectors, however these standards do not currently differentiate between the sectors. Discussions are underway which may eventually lead to the formulation of accounting standards specific to the non profit sector.

Recent changes to auditing standards for non profits have made the job of conducting an audit more exacting and the audit process more stringent.

For further information contact your organisation’s auditor.

Insurance

All Neighbourhood Houses and Learning Centres need a range of insurances. For those in receipt of recurrent funding from DPCD, DHS or Dept of Justice some of your insurance requirements are provided, (see also page 14).

In 2006 ANHLC negotiated a tailored contents and buildings policy for the NH&LC sector with Guild Insurance. All ANHLC members can access this policy if they choose.


Accredited Training Standards

RTO’s
Some Neighbourhood Houses and Learning Centres become registered as Registered Training Organisations (RTO’s). Registration as an RTO enables an organisation to deliver accredited training packages leading to nationally recognised qualifications.


AQTF
Every RTO must comply with the Australian Quality Training Framework (AQTF), a set of nationally agreed quality assurance arrangements for training and assessment services.

The AQTF standards for RTO’s deal with a range of matters including learning and assessment strategies, staff competence, record keeping and quality systems.

Relevant documents:  Australian Quality Training Framework – AQTF Overview


Childcare Service Provision
If your Neighbourhood House or Learning Centre provides licensed childcare then it is bound by the Children’s Services Regulations


Organisation:  The Office for Children Department of Education and Early Childhood Development: contact your local regional office.

Current legislation regarding the provision of children’s services require childcare staff to have both a Working with Children Check and a Police Records Check

For further information about the Working with Children Check and Working With Children Act contact Department of Justice 1300 652 879 or go to your local post office or go to www.justice.vic.gov.au/workingwithchildren

For further information about the Police Records Check contact Victoria Police Public Enquiry Service 9241 5907 or go to your local police station or go to www.police.gov.au
Other Accountability Areas

Food Safety

Organisations that provide food to participants may be subject to the provisions of the Food Safety Act. If the food you provide is sold to participants as part of a service or food is provided for a vulnerable group eg children or the elderly, this increases the chances of the Food Safety Act being applicable.

The Food Safety Act is administered at the local level by your Local Government Authority (shire or council).

Relevant documents: Food Safety Act, your organisation’s Food Safety Plan.


Fund Raising

Some fund raising activities are subject to the Fund Raising Appeals Act 1998 and must be registered with Consumer Affairs Victoria. Organisations that raise less than $10,000 a year in fundraising and only use unpaid volunteers in the fundraising activities are exempt from the Act. Fundraising activities internal to an organization and targeted at past and present members and their relatives are also exempt from the Act.

Registration as a fundraiser is free and forms can be downloaded from the Consumer Affairs website. To register you must consent to a Police Records Check. There is no charge for the Police Records Check.

Organisation: Consumer Affairs Victoria 1300 558181 or www.consumer.vic.gov.au

Privacy


The Information Privacy Act governs the handling of all identifying information collected in relation to services funded by the Victorian State Government. Even though part of your operations may not be covered by the Information Privacy Act 2000, for example information gathered from students enrolled in a non funded course, you might decide to apply the principles of the Information Privacy Act 2000 across your entire organisation for the sake of consistency and/or because of your support for the principles themselves. The Health Records Act governs the handling of all health information wherever it is collected or held.

Organisations need to:

- develop and implement a Privacy Policy,
- ensure information handling practices are compliant with the legislation and policy,
- require all staff to sign a Confirmation Letter stating their knowledge of and agreement to abide by the policy
- develop an Information Collection Statement to be provided to anyone from whom personal and health information is collected
• develop a protocol for handling applications for access to personal and health information held by the House/Centre.

Relevant documents: Your organisation’s Privacy Policy, Staff Confirmation letter, Information Collection Statement.

Governments and other bodies fund organisations to deliver programs and services to individuals and communities. It is a condition of funding to read, accept and sign off on the terms and conditions of the funding program. These terms and conditions are outlined in funding agreements (also known as funding and service agreements or FaSAs). Once signed the funding agreement is a binding legal document.

A funding agreement outlines the requirements of services to be delivered, the associated funding that will be paid to an organisation to deliver the services and the reporting mechanisms used to account for the expenditure of the funding. See page 21 for further information about building an accountability and compliance tool that will help keep you on track and on time with your accountability and compliance requirements.

Funding and service agreements usually cover the following topics organised into sections or schedules:

- Organisational details of the parties to the agreement, ie: funding body and recipient.
- Outline of the purpose of the funding, program requirements,
- Practical details of payments, reporting timelines and mechanisms.
- Signatory page confirming parties to the contract and their acceptance of its terms and conditions
- Terms and conditions of the funding contract.

The service agreement documents vary in structure and content from funding body to funding body but there are a number of important standard clauses common to many. It is vital that signatories to the agreement read the documents thoroughly and understand their rights and responsibilities in relation to the funding program. It is also very important to have a broad understanding of the legal and regulatory concepts that some of the standard terms and conditions of a service agreement are based on. These standard terms and conditions usually include:

- Intellectual Property
- Indemnity and Insurance
- Dispute Resolution
- Conflict of Interest
- Risk Management

Intellectual Property

What is Intellectual Property (IP)?

In exactly the same way as a person or organisation owns furniture, computers, cars or books (real property), they can own the expression or form of an idea -
inventions, logos, trademarks, new or different processes, books, computer programs, training courses etc. This is intellectual property.

As the owner, a person or organisation has rights over their intellectual property – they can sell it, change it, give it away, destroy it, and control who has access to it or who can use it. In Australia, these rights are guaranteed by a range of laws, including the Copyright Act 1968.

Most funding agreements will include a clause that requires the funded organisation to comply with all relevant or applicable laws, so being clear on your rights and obligations regarding IP is important.

**Copyright**

Copyright is the form of IP protection that funded organisations are most often concerned about. Copyright requirements are relevant in a number of circumstances including when:

- the organisation wants to make use of material that is copyrighted to someone else; and
- some of the funds or resources provided under a funding or service agreement are used to create materials.

**Using copyright materials**

The copyright notice included in most materials describes what can and can’t be done with the materials and what permission is needed. There are some special circumstances that may apply (for example, for organisations that are regarded as educational institutions) but generally, organisations should comply with the copyright notice. (eg seek permission from the copyright owner.)

**Materials created with Victorian Government funds**

There is currently some variation in funding and service agreements generated by different Departments around the IP ownership for materials created with government funds. They also vary in the conditions applied to use, reproduction and promotion of these materials.

These variations may have an impact on what sort of materials an organisation creates using government funds. For example, if under the terms of the agreement, the IP remains with the organisation it may be a good idea to use the funds to support developing the first in a series of training resources, with the intention of producing future items for sale by using the same IP supported by the organisation’s own resources. But, if the IP is owned by the funding body, this future development may not be possible.

It is critical that funded organisations read the clauses relating to IP very carefully and clarify any requirements with the funding body.

Further information on IP can be obtained through IP Australia, an Australian Government body that administers IP matters. (www.ipaustralia.gov.au).

For more specific information on copyright, including the educational use provisions the Australian Copyright Council (www.copyright.org.au) and Copyright Agency Limited (www.copyright.com.au) both publish fact sheets and provide online information.
Insurance and Indemnity

Funding and service agreements generally require the funded organisation to have various insurance covers.

Public Liability

For example ACFE requires public liability cover of at least $10,000,000 (ten million dollars) per event.

DPCD and DHS both acknowledge that funded organisations are covered for public liability, professional indemnity, directors and officers liability, medical indemnity and personal accident insurance for volunteers and some specified participants through the state government’s Community Service Organisations Insurance Program currently managed by the Victorian Managed Insurance Authority or VMIA. (The indemnity limit in this program is $20,000,00. For further details please refer to the VMIA’s guidelines on [www.vmia.vic.gov.au](http://www.vmia.vic.gov.au)).

Workers Compensation and Building & Contents Insurance

Both DPCD and DHS require funded organisations to have workers compensation insurance (see also page 7) in accordance with the law and insurance against loss or damage to an asset (eg building and contents insurances) as appropriate.

Indemnity

The indemnity clause of a funding and service agreement specifies that the funded organisation must insure or protect the funding body against possible loss, expense or damage caused by the funded organisation except where the loss, expense or damage can be attributed directly to the negligence of the funding body. This type of protection or insurance is provided by Public Liability insurance cover.

Conflict of Interest

Most funding and service agreements will contain a clause asking the funded organisation to ensure that no conflict of interest exists or is likely to arise in the performance of the duties and obligations under the agreement.

What is a conflict of interest?

The committee and staff of any organisation are always required to act in the best interest of the organisation they are currently working for. Sometimes personal interests [or other professional involvement] may conflict with the organisation’s interests, or others may believe it does. A person playing an active role in managing a community organisation should be able to clearly separate personal interests from interests of the organisation, and be seen to do this.
Awareness of conflict of interest

All Committees of Management should develop a policy regarding “Conflicts of Interest” and ensure that all members and staff receive a copy. Also, the availability of a statement of roles and responsibilities for committee members and position descriptions for employed staff and volunteers will help to prevent conflicts of interest arising.

When are conflicts of interests bad?

Conflicts of interest occur regularly. They are not necessarily bad in themselves, but can be a problem if:

- the conflict of interest is not recognised;
- the conflict of interest is not declared;
- the best interest of the organisation is not considered.

Others outside the organisation may think there is a conflict of interest even when there is not. Therefore individuals need to be able to show that potential conflict is recognised and make sure they do not interfere with organisational process.

What can cause a conflict of interest?

There are several examples of potential conflicts of interest including:

- you are on the selection panel which chooses a relative or friend for a job;
- you are on a Committee and are also employed by a funding body which provides grants to the organisation;
- you are on a Committee and also part of another body eg. Council, whose decisions affect the organisation;
- you are on the Committee for an organisation which buys materials, products, or services from your private company or family business;
- you are on Committees for two organisations which compete for funds or participants;
- you are on the Committee of an organisation which employs a relative or close friend;
- other members of your family are part of the same Committee;
- members of your family or close friends are part of the Committee which makes decisions which could benefit you;
- you are on a Committee which makes decisions which might benefit you personally eg. providing a course you particularly want to do.

In each of the above examples you may not have gained personal benefit from your involvement, however others may see that you could have, or believe that you did. The organisation must act to prevent any potential conflicts of interest to protect both the individual and the organisation.
What can be done about conflict of interest?

There are several ways to limit or eliminate the impact of conflict of interest, including the following:

- at the first Committee of Management meeting after the Annual General Meeting, each Management Committee should ask about potential conflicts of interest for members of the new committee. These conflicts should be recorded along with what you have decided to do about them. This record should be included with your record of committee minutes and available to all members;
- declare any new potential conflicts of interest as soon as you become aware of them;
- ask that your declaration of a potential conflict of interest be recorded in the minutes;
- state all your other professional/community involvement(s) and why you see that there might/might not be a conflict of interest;
- ask for the Committee to discuss what action should be taken in each instance of potential conflict. These actions could include:
  - declare the potential conflict and draw everyone's attention to it;
  - contribute to the discussion, or decisions, only after everyone else has put their views;
  - leave the room while all discussion on the matter which affects you is under way;
  - abstain from voting or deciding on any questions where your interests conflict;
  - seek leave of absence from the Committee for the months during which the decisions where you have a conflict of interest will be made;
  - resign from the Committee if the conflict is important and likely to continue;
  - always respond to any complaints that your Committee ignored conflicts of interest and inform the complainant about your decision and the reasons for it.

Conflict of interest and paid staff

A Committee of Management is legally the employer of all staff who work in Neighbourhood Houses and Community Learning Centres. Conflict of interest[s] over employment and other issues can arise when paid staff are part of the committee. Where some financial or personal benefit is potentially involved members should do one of the following:

- State their conflict of interest as soon as possible and ask that they not take part in the discussion or decisions about the issue.
- Ensure that staff members are ex officio members of the committee ie non voting members (Generally the coordinator is an ex officio member who attends committee meetings to provide leadership. In some organisations a staff member apart from the co ordinator is elected as the staff representative and has voting rights).
• The staff member should ask the committee to determine whether they should stay involved, or how they can participate without compromise. They might then be given the opportunity to take part in the discussion, or to put their views and then to leave the room to abstain from voting.
• Select a representative on the committee who can put forward views or information on behalf of the staff member.
• Where staff are part of management committees their role should be clearly defined in policy.

Dispute Resolution

If during the term of the service agreement either the funding body or the funded organisation considers that the other party is not meeting its obligations, or one of the parties admits to an inability to satisfactorily meet its obligations, the service agreement document generally outlines processes to deal with such issues, ie: a breach of the service agreement, dispute resolution and the termination of the agreement.

These processes and the details of what constitutes a breach vary from agreement to agreement. For example DHS and DPCD specify timelines for the resolution process, ACFE does not.

Termination of Contract

Termination of contract clauses outline the specific conditions which result in the termination of the contract, for example financial or organisational changes for the recipient that make it impossible to meet the terms and conditions of the contract or direct breaches of the contract.

These clauses also specify the recipient’s liability for the return of any unexpended funds held at the time of termination.
Examples of Accountability Requirements

Broadly speaking, meeting accountability obligations of funding agreements and contracts requires an organisation to provide information in two main areas:

**Financial and Organisational**: showing that the organisation is an appropriately structured legal entity & effectively managed and that funding has been spent on what it was supposed to be spent on. Most funding bodies and Consumer Affairs require organisations to submit their independently audited Annual Financial Statements within a set time after their Annual General Meeting. Most other financial information required by funding bodies is based on or derived from these Annual Financial Statements.

and

**Program/Activity Planning & Outcomes**: showing what has been done in the funded program/activity and what the outcomes of those programs/activities are.

The reporting mechanisms for providing the required financial, planning and outcomes information to the funding bodies is reviewed and changes from time to time. It is important to read Funding and Service Agreements carefully each year to keep up to date with all changes to reporting mechanisms.

Below are examples of the accountability requirements of the most common funding bodies accessed by Neighbourhood Houses and Learning Centres.

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**Adult Community and Further Education (ACFE) via the Department of Planning & Community Development (DPCD)**

ACFE purchases student contact hours from registered ACE organisations for the delivery of a variety of adult education courses.

ACFE Registration: (for further information see Guidelines and Criteria for Registration as an Adult Community Education Organisation with the ACFE Board on the ACFE website [www.acfe.vic.au](http://www.acfe.vic.au)) Certificates are issued for 1, 2 or 3 years. It is then a self assessment process.

ACFE’s **financial and organisational accountability requirements** for registered organisations in receipt of funding include:

- Business Viability Statement (for further information see Guidelines for Assessing the Business Viability of Adult Community Education Organisations on the ACFE website [www.acfe.vic.au](http://www.acfe.vic.au))
- Annual Report and Audited Financial Statements

ACFE’s **program/activity planning and outcomes requirements** include:

- Delivery Plan and Quarterly statistical data and final AVETMISS compliance data
- Annual Microsoft survey to access Microsoft license agreement for discounted software.
- Commonwealth Equipment Plan, Acquittal and Outcome Report
- State Equipment Plan, Acquittal and Outcome Report
Neighbourhood House Co ordination Program (NHCP) via the Department of Planning & Community Development (DPCD)

DPCD provides funding through the Neighbourhood House Co ordination Program (NHCP) for Neighbourhood House co ordination hours which includes a salary component and some operational costs.

DPCD’s financial and organisational accountability requirements for Houses and Centres include:

- Annual Report and Audited Financial Statements
- Annual Declaration and Certification

DPCD’s program/activity planning and outcomes requirements include:

- Biannual Progress Reports

For further information see User Guide for the Neighbourhood House Coordination Program Reporting on www.localgovernment.vic.gov.au

Department of Human Services (DHS)

DHS is a very large state government department that administers many different funding programs. The financial and organisational accountability requirements are similar across all programs, but program outcomes reporting requirements vary from program to program. We have used the Home and Community Care (HACC) program as an example as it is one of the most common DHS funding programs accessed by Neighbourhood Houses and Learning Centres. The HACC Program provides funding for services that support frail aged people, younger people with disabilities, and carers. Neighbourhood Houses and Learning Centres use this funding to run social support activities such as community lunches, recreational music groups, gentle exercise for the target groups.

DHS’s financial and organisational accountability requirements include:

- Annual Report and Audited Financial Statements
- Organisation Certification
- Annual Financial Indicators Statement
- Auditor’s Statement

For further information see Service Agreement Information Kit for Funded Organisations at http://hnp.dhs.vic.gov.au/wps/portal

DHS’s HACC program/activity planning and outcomes requirements include:

- HACC Quarterly Output data Collection
- National Minimum Data Set (MDS)
- Annual Review – compilation of quarterly statistics
- Audit of program planning every three years

Local Government

The level of support provided by local government varies from council to council. Some councils provide operational funding, which may be recurrent or via a grant program documented through a funding and service agreement. Many councils provide council owned buildings for the Neighbourhood Houses or Learning Centres to operate from.

As well as funding & service agreements, local councils often enter into a Memorandum of Understanding: a document which details the mutually agreed objectives and community development outcomes of the services to be provided by both parties.

Local Government financial and organisational accountability requirements may include:

- Annual Report and Audited Financial Statements
- Copy of current strategic plan
- Proof of incorporation
- Proof of current public liability insurance

Local Government program/activity planning and outcomes requirements may include:

- Report on program strengths and weaknesses
- Statistical reports

For further information contact your Local Council or Shire.
Building an Accountability & Compliance Tool for your Organisation

Most Neighbourhood Houses and Learning Centres receive funding from a number of funding bodies. Each funding body has a range of reporting formats and reporting deadlines. Organisations may well need to attend to at least one accountability requirement process each month. The best way to keep track of these requirements is to create a spreadsheet-based calendar as per the example over the page. This example only details funding agreement accountabilities but you can also add in any of your compliance dates (e.g., dues dates for the BAS or the renewal date for your Children’s Services licence).

As well as completing accountability tasks on time it is important to nurture a culture of involvement in managing and understanding accountability and compliance in your organisation. This does not mean that everyone needs to know each of the funding or contract documents, acts, legislation etc. off by heart. However, the management committee and staff with management responsibilities need to have a broad understanding of the area each one covers, be familiar with your obligations and know where funding agreements and other relevant documents are kept.

Here are some tips which may help achieve this and successful management of your funding and service agreements and contracts:

1. Read contract(s) or funding agreement(s) thoroughly before signing and highlight responsibilities and due dates
2. Review the annual activities and general operations of your House or Centre. Do any of these have regulatory or legislative implications? E.g., your annual raffle, community lunches etc.
3. Assign responsibilities for staff against contract(s), funding agreement(s) or regulatory requirements.
4. Create a tailored calendar of requirement tasks, dates and responsible staff member (ANHLC has created a sample Accountability and Compliance Calendar. A copy can be emailed to you on request).
5. Make the following regular agenda items at your committee meetings:
   - check that the current month’s accountability and compliance tasks have been completed,
   - review participant and staff feedback on your programs and activities,
   - discuss or plan changes and developments to programs,
   - check for any new or changed regulations or legislation that may apply to your operations.
To build an Accountability & Compliance Tool for your organisation: enter the months down the vertical axis and the accountability & reporting requirements across the horizontal axis sorted according to funding body (you can also add in columns for compliance tasks). Tick the month or fill in the actual due date for each requirement.

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| ANHLC has developed an electronic sample in excel format of this Accountability and Compliance Tool – it includes links to brief explanations of many of the accountability requirements. This calendar can be tailored and customised to your organisation’s particular situation. A copy can be emailed on request.