

Removing a committee member from the committee

Information for Victorian incorporated associations

The committee of management of a Victorian not-for-profit incorporated association controls and manages the business and affairs of the organisation.

Given that vital role, it is important that the committee of management functions well, so it can steer your organisation in the right direction.

Sometimes an organisation's ability to achieve its aims is disrupted because a committee member is behaving inappropriately, so your organisation needs to know what can be done.

This information sheet covers:

- ▶ things to think about before removing a member from the committee (or board) of your incorporated association
- ▶ how a committee member can be removed from the committee of management
- ▶ what happens once a committee member is removed from the committee
- ▶ how closely the law requires your organisation to follow its procedures on removal of a committee member, and
- ▶ some other ideas if these haven't worked.

Who is involved in this dispute?

Knowing who your dispute involves is important, because there are different laws and procedures that apply to different conflict situations.

This information sheet deals with **disputes with a committee member of a Victorian incorporated association**.

There are legal requirements when trying to resolve these kinds of disputes under the *Associations Incorporation Act 1981* (Vic) and in your organisation's rules.

Note:

This information sheet does **not** cover:

- ▶ how to remove a committee member from the organisation entirely – for information go to www.pilch.org.au/handlingconflict/
- ▶ how to handle conflict and disputes within your organisation – for information go to www.pilch.org.au/handlingconflict/
- ▶ disciplinary issues with volunteers – for information go to www.pilch.org.au/volunteers/
- ▶ disciplinary issues with employees – for information go to www.pilch.org.au/employees/
- ▶ situations that may endanger the health and safety of people in the workplace (eg. bullying) – for information go to www.pilch.org.au/OHS, or
- ▶ violence – the police may need to get involved, and criminal laws may apply. Contact Victoria Police (www.police.vic.gov.au).

Are there steps to take before trying to remove a committee member?

Removing a committee member from the committee of management (or governing body) of your organisation is not a decision that should be taken lightly. The process can be divisive and controversial, so think carefully about other options to deal with a committee member who is causing trouble, before trying to remove them.

Talk to the committee member

You (or an appropriate representative) could talk with the committee member about your concerns and try to reach an agreement about how these can be addressed.

Resolving the problem might be as simple as explaining to the committee member what their role is, and the performance standards expected.

Remember:

You may wish to ask the committee member whether they think they should be in a governing role within the organisation. Even if they leave their role on the committee, they may still be a member of the organisation (depending on what your rules say). Perhaps they could contribute to the organisation in another way?

Use your organisation's grievance (dispute resolution) procedure

Use your organisation's grievance procedures to try to resolve conflicts and disputes under the rules.

Go to our Information sheet: 'Dealing with disputes and grievances with members' at www.pilch.org.au/handlingconflict/.

Mediation

Ask the committee member to attend mediation with representatives of the organisation. With the help of an mediator, you may be able to reach a solution that everyone can live with.

Go to our Information sheet: 'Using mediation to resolve conflict and disputes' at www.pilch.org.au/ifthingsgowrong/.

Wait for the committee member's term to end

Usually the members of a committee of management of an incorporated association are elected to serve for a specific 'term' (period of time). If your organisation uses the model rules, for example, committee members are elected at the Annual General Meeting (AGM) and hold office until the next AGM. They are eligible for re-election at that next AGM.

If a problem arises close to the end of a committee member's term, the easiest thing to do might be to let the committee member stay on until the next election, and make sure they're not re-elected!

Note:

Your organisation's rules will set out circumstances when a committee of management position will become 'vacant.' If you use the model rules, rule 24 says that a committee of management position becomes vacant where a committee member:

- ▶ ceases to be a member of the organisation
- ▶ becomes insolvent, or
- ▶ resigns.

You could talk to the committee member about resignation – this may be best for everyone.

How can a committee member be removed?

Check your organisation's rules to find out the procedure (if any) for removing a committee member from the committee of management. It is not compulsory for incorporated associations to have rules for the removal of a committee member, but if your rules are silent on this issue, the model rules provision will automatically apply.

Note:

If your organisation uses the model rules, rule 30 provides that an association may, by 'resolution' in a general meeting of members, remove a member of the committee before the end of their term.

Does there have to be a general meeting to remove a committee member?

If your organisation uses the model rules, yes – there will need to be a general meeting of the members of the association to remove a committee member.

A general meeting is a meeting of the members of the incorporated association. It can be a 'special' general meeting or an AGM. (Usually, a general meeting to remove a committee member would be a special general meeting.)

If your rules require a general meeting, check for requirements about convening that type of meeting. Under rule 10 of the model rules, for example, the committee of management:

- ▶ can convene a special general meeting 'whenever it thinks fit', and
- ▶ **must** convene a special general meeting if 5% or more of the members of the association request one.

Your rules will contain requirements for giving notice of the meeting to members. Make sure you follow these carefully.

If your organisation doesn't use the model rules, check what your own rules say.

What happens at the meeting?

If your organisation uses the model rules (or has a procedure similar to model rule 30), the members of the organisation will need to vote on a proposed 'resolution' to remove the committee member.

Your organisation's rules may have specific requirements to give the committee member a chance to put their side of the story. If your organisation uses the model rules, the committee member who is the subject of a proposed resolution for removal may:

- ▶ write down why they think they should keep their position as a member of the committee
- ▶ give this document to the secretary or president, and
- ▶ request that it be provided to the members of the organisation.

The secretary may then provide a copy to each member – or if this does not happen, the committee member may require that it be read out at the meeting.

Note:

For more information on meetings, go to our [Guide for Public Officers and Secretaries of Incorporated Associations](#) and see especially:

- ▶ part 6 (procedures for meetings – including how to pass a resolution), and
- ▶ part 5 (giving notice of meetings).

If members vote to remove a committee member, what happens next?

If your organisation uses the model rules (or has a procedure similar to model rule 30) and members pass a resolution to remove the committee member, then he or she ceases to be on the committee.

Remember:

Removing a committee member *from the committee of management* is different to removing them *from the whole organisation*. If the committee member is also a member of the organisation, their removal from the committee of management will not affect their status as a member of the organisation – their membership will continue unaffected.

Check your rules about the next step for your organisation.

Your rules may have requirements about how many people must be on your committee. This will determine if it is necessary to replace the committee member before your next AGM.

For example, under the model rules the committee can appoint a member of the association to fill a 'casual vacancy'. That member stays on the committee, subject to the rules, until the next AGM.

Can a committee member be removed from the whole organisation (not just the committee of management)?

If your organisation wants to remove a committee member from the whole organisation (not just from the committee of management) you will need to follow the disciplinary procedures (if any) in your organisation's rules.

Go to our Information sheet: 'Removing or disciplining a member' at www.pilch.org.au/handlingconflict/ - it explains how an incorporated association can remove a member (committee member or not) from the organisation entirely.

How closely does the law require our organisation to follow its procedures on removal of committee members?

You should follow your organisation's procedures on removal of a committee member very closely - otherwise the outcome reached might not be legal and/or your organisation could be taken to court.

Note:

Your organisation, and those it appoints, should make sure the process for removing a committee member is fair and proper. Otherwise, the committee member's removal might be challenged by that committee member.

Go to our Information sheet: 'Going to court about an internal dispute' at www.pilch.org.au/handlingconflict/ to find out about court actions that can arise from escalated disputes with members of an incorporated association.

We're still concerned. What else can we do?

Remember, you can:

- ▶ use your organisation's grievance (dispute resolution) procedures - go to our Information sheet: ['Dealing with disputes and grievances with members'](#), and
- ▶ ask the committee member to attend mediation - go to our Information sheet: ['Using mediation to resolve conflict and disputes'](#).

Depending on the circumstances, your organisation may wish to consider the following options:

1. Ask Consumer Affairs Victoria (CAV) to become involved

CAV is the regulator for Victorian incorporated associations and it can take action if there is evidence that there has been a breach of the *Associations Incorporation Act 1981* (Vic).

CAV has power to:

- ▶ investigate an incorporated association
- ▶ fine or prosecute an association (or an individual) for offences under the Act, and
- ▶ apply to the Magistrates' Court to appoint a 'statutory manager' to take over the affairs of the association until it is stable enough to manage its own affairs again.

2. Take legal action against the committee member

Taking legal action should only be contemplated in serious situations and you should seek legal advice before doing so. For general information on some of the court actions available to members of a Victorian incorporated association, go to our Information sheet: 'Going to court about an internal dispute' at www.pilch.org.au/handlingconflict/.

3. Leave the organisation

An individual or individuals can decide to leave the organisation and start a new one, or join another group. Sometimes a decision to 'walk away' can be hard, but ultimately the best option.

Resources

PILCHConnect information sheets for Victorian incorporated associations

- ▶ [Dealing with disputes and grievances with members of an incorporated association](#)
- ▶ [Using mediation to resolve conflict in your not-for-profit organisation](#)
- ▶ [Removing a member of an incorporated association](#)
- ▶ [Going to court about an internal dispute](#)
- ▶ [Guide for Public Officers and Secretaries of Victorian Incorporated Associations](#)

Legislation

Associations Incorporation Act 1981 (Vic)

Other

- ▶ [QUT, Australian Centre for Philanthropy and Nonprofit Studies - When Things Go Wrong.](#)

This is part of QUT's Developing Your Organisation Manual which provides directions to help not-for-profits meet their governance, organisational and service delivery responsibilities.