

COMMITTEE MEMBER DUTIES: DUTY TO ACT WITH CARE AND DILIGENCE*

Committee Members and others involved in the management of an Association are required to act with care and diligence.

In Tasmania the legislation governing Incorporated Associations is silent on duties which means knowledge about your duties comes from the common law (sometimes called 'judge made law').

WHAT THIS DUTY REQUIRES

You are required to take the same level of care when acting on behalf of the organisation and to use the same amount of skill as a reasonable person would in the same position as you and with the same experience.

WHAT STANDARD OF CARE AND DILIGENCE IS REQUIRED?

Demonstrating that you have acted with care and diligence will depend on the circumstances, including:

- The nature of the Association (such as its activities and size)
- Your background, qualifications and responsibilities in the Association

The test is objective which means it is not enough if you think you acted with care and diligence.

HOW DO YOU DEMONSTRATE YOU HAVE MET THIS DUTY

You need to take reasonable care when acting as a Committee Member.

You must also have a basic understanding of the activities of the organisation, its financial position and what is expected of you as a Committee Member.

You must be diligent about your role as a Committee Member.

Examples of actions you should take include:

- Attend meetings and pay attention.
- Read meeting documents before the meetings (minutes, reports, etc).
- Ask questions and make up your own mind on decisions (avoid rubber stamping)
- Avoid taking on further debts if the organisation cannot pay its current debts.
- Keep up to date with the goings on of the organisation

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- If you don't understand something, ask.
- Make sure your decisions are legal.

Practical Tip: If your not-for-profit is a company limited by guarantee, director duties will be found in the Corporations Act. They are very similar to the common law duties.