

KEMPSEY SHIRE COUNCIL

SECTION 355 COMMITTEE GUIDELINES

Procedure 5.2.3

Policy No. and title	5.2	Committees of Council Policy
Procedure	5.2.3	Section 355 Committee Guidelines
Version	2	
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OBJECTIVES

To provide a management policy to assist Section 355 Committees in discharging their responsibilities in accordance with the Local Government Act 1993.

POLICY STATEMENT

1 Introduction

This management procedure has been prepared in order to assist Section 355 Committees in discharging their responsibilities in accordance with the Local Government Act 1993. Under Section 355 of the Act, Council has delegated certain functions to Committees for the care, control and management of Council assets. The Committees are therefore required to undertake a variety of administrative tasks, as these Committees are accountable to Council.

Committees will note that the guidelines have been established to ensure that proper records of committee meetings and financial situations are being maintained. This policy also provides detail on the appointment of Committee members, insurance and functions of Council which cannot be delegated to Committees.

Section 355 Committees are urged to use these guidelines at all times to ensure that they are operating in accordance with the agreement of Committees and Council.

2 The Appointment of a Committee

The Local Government Act provides that:

- 1 A function of a Council may (subject to Section 377 of the Act) be exercised by a Committee of the Council.
- 2 Any such Committee may be dissolved by the Council at any time.
- 3 That the term of each Committee is four years in line with Council's term of office.
- 4 Each Committee shall cease to hold office at the end of August in the year of a Council election. The Committee will then be a caretaker committee until the appointment of the new Committee by Council at its September meeting. Existing members are eligible for re-appointment.

3 The Delegation of Council's Power to a Committee

The Local Government Act allows Council to delegate a variety of its powers, duties and authorities to a Committee, but certain matters **cannot** be delegated. The matters

that **cannot** be delegated to a Committee are specified in Section 377 of the Act and include:

- a) Fixing of charges or fees (the Committee may submit recommendations for approval by Council in relation to the fixing of charges and fees for use of the facility under its control).
- b) Borrowing of any monies without the express written consent of Council.
- c) The sale, lease or surrender of any land or other property vested in its care under the provisions of Local Government Act 1993, (as amended).
- d) The acceptance of tenders which are required to be called by Council. (The Committee may invite and accept quotations for minor works, goods and services covered within the scope of its authority provided by Council).
- e) The payment or making of any profit, gain or gift, to or by its members as well as allowance or travelling expenses incurred whilst attending Committee meetings.
- f) The carrying out of any works on or to the facility including alterations, reconstructions or construction without the prior consent of Council. (Does not include minor maintenance works).
- g) Unreasonably withholding consent for the letting of the facility to any organisation or individual which agrees to comply with and adhere to the rules adopted for use of the facility, providing an acceptable letting period is available.
- h) Vote monies for expenditure on the works, services or operations of Council.
- i) The employment of staff without the authority of Council and/or the General Manager.
- j) The making of donations, if a Committee proposes to make a donation they are required to seek Council approval.
- k) Community members/volunteers have no authority to direct a Council staff member to undertake or complete any task.

The Section 355 Committee will also be subject to such limitations and conditions as may from time to time be imposed by law, specified by resolution of the Council or in writing by the General Manager to the Committee. The Committee will observe any Rules and Regulations made by the Council, in relation to the facility under its managements and control.

If at any time the Committee is deemed to be functioning outside the limits of its powers as described herein, all powers may be revoked by written notice to the Committee signed by the General Manager or his/her representative.

4 Committee Procedure

4.1 Appointment of Committees and Members

The decision to form a Section 355 Committee is usually initiated by Council where a community service is proposed or provided.

When establishing a Committee, Council seeks expressions of interest in writing, from residents of the local community, usually by advertising in the local press. The expressions of interest are assessed by Council and the most appropriate individuals are selected.

The number of members of a Committee is determined by Council and is usually dependant on the role of the Committee.

4.2 Election of Office Bearers

At its first meeting following appointment, the Committee shall elect the following office bearers:

- Chairperson
- Secretary
- Treasurer
- Any other officer(s) that the Committee considers necessary.

The term of office shall expire at the Annual General Meeting. Retiring office-bearers are eligible to re-nominate at the Annual General Meeting. Council is to be advised annually of the office bearers and members.

4.3 Annual General Meeting

Committees should hold their Annual General Meetings in September each year. The agenda for the Meeting should be as follows:

- 1 Apologies
- 2 Confirmation of Minutes of Previous Annual General Meeting
- 3 Chairperson's Report
- 4 Secretary's Report
- 5 Treasurer's Report
- 6 Election of Chairperson
- 7 Election of Secretary
- 8 Election of Treasurer

Please note the Treasurers Report should be in the form of the annual financial statements, which, when audited are to be forwarded to Council.

4.4 Ordinary Committee Meetings

Ordinary Committee meetings may be held as often as necessary, but at least quarterly.

A simple majority of members (quorum), half of the Committee's total membership plus one, should be present for a meeting to proceed.

Any decisions made at a meeting should have a mover and seconder and be adopted by a majority of the members present. Minutes of all meetings should be taken and confirmed at the following meeting.

A financial report detailing income and expenditures against budget should be submitted to each meeting.

4.5 Disclosure of Interests at Meetings

Council recognises the importance of Committees as being transparent in all its dealings, and has adopted a Code of Conduct which shall be observed by all Council Committees. A full copy of the Code has been sent to Committees which details the full obligation of members should a conflict of interest or pecuniary interest arise. A copy should be distributed to all Committee members.

In order to assist members a Conflict of Interest and Pecuniary Interest are defined below:

- a) A **Conflict of Interest** exists when a Committee person has to deal in a matter in their public capacity, which is also a matter where the person:
 - Has a private interest arising out of kinship, friendship, membership of an association, society or trade union, or involvement or interest in an activity, or
 - Could reasonably be perceived by others as one in which a conflict of interest could possibly exist.
- b) A **Pecuniary Interest** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom that person is associated.

If a member of a Committee has an interest in any matters before the meeting, the member must disclose the nature of the interest and not take part in the discussion or voting.

5 Financial Control

5.1 General

Care must always be taken when dealing with financial matters, as Council is required to comply with strict financial requirements of the Local Government Act and Accounting Standards. It is therefore necessary for Committees to follow certain rules in the handling of monies.

Please contact Council should you have any questions relating to the management of the Committee's finances.

5.2 Books of Account

The following requirements are recommended to the Committee:

- a) Proper Books of Account are to be kept which are to include:
 - i) A cash book in analysis form, all entries are to be written in ink
 - ii) A bank account and cheque book(s)
 - iii) Consecutively numbered receipt books
- b) Receipts in the name of the Committee shall be kept for audit purposes, and in the case of error shall be cancelled and a fresh receipt issued, the original cancelled receipt is to remain in the book.

- c) Invoices and all claims for payment for goods and services received or reimbursements for out of pocket expenses shall be retained. Invoices and claims for payment shall be stored in payment order fixed in a file.
- d) All payments shall be approved by the Committee and a list of these accounts shall be recorded in the Minute Book.
- e) Before each committee meeting, reconciliations between cash book and bank statements are to be made, and all bank statements are to be retained.
- f) Council is available to discuss any issues associated with financial management.

5.3 Associated Accounting Procedures

- a) The Committee shall be responsible for collecting and the banking all income into its own account.
- b) The Committee shall be responsible for paying all accounts and expenditure items. Any goods or services purchased through Councils ordering system are to be pre-paid.
- c) The Committee shall maintain all books of income and expenditure and shall within 14 days of a request from Council submit those books to Council.
- d) Management committees may operate a petty cash float not exceeding \$100.00 at any one time in a locked container with the key being held by the Treasurer. All petty cash payments must be supported by receipts which shall be immediately placed in the petty cash container.

5.4 Audit Procedures

- a) The financial year for the Committee shall be from 1 July to 30 June
- b) For audit purposes the following must be provided:
 - i) Cashbook (manual or computerised)
 - ii) All bank statements from 1 July to 30 June
 - iii) Details of money owed to others as at 30 June (creditors)
 - iv) Details of money owing as at 30 June (debtors)
 - v) Details of assets bought, sold, traded or disposed of
 - vi) Balance sheet
 - vii) Income and expenditure statement
 - viii) Bank reconciliation
 - ix) Cheque books (all butts completed and documentation supporting payments)
 - x) Deposit books (detailing nature of income and documentation supporting receipts)

- xi) Invoices and claims for payment
- xii) Minutes of Committee meetings
- xiii) Assets register
- xiv) Completed Hire of Facility forms (if applicable)

5.5 Making of Fees and Charges

- a) In accordance with Section 377 of the Local Government Act 1993 Council cannot delegate to any person or body authority to make a charge or fix a fee, which includes the setting of fees for the use of this facility.
- b) In accordance with the budgetary process of Council, Committees should advise Council by 31 January each year of the fees and charges upon which the budget for the next financial year has been based.
- c) These fees must then be advertised in Council's Management Plan during May/June of each year and adopted by Council before 30 June.

6 Maintenance and Improvements to Facilities

General

- a) Each Committee has the responsibility for ensuring that the facility under its control is maintained in a state of reasonable repair and does not represent hazards to users. This may entail regular maintenance, (e.g. Cleaning, replacement of consumables – paper towelling, etc., mowing and watering) and periodic maintenance of a major nature (e.g. Repainting, replacement of worn or broken items).
- b) Council's staff will inspect the various facilities from time to time, but Committees are expected to keep Council informed of any substantial repair or upgrading work or maintenance of a major nature required on the facility under their control.
- c) Any alterations must first be referred to Council.
- d) Any works considered necessary or desirable, but beyond the means of the Committee, should be referred to Council.

7 Insurance

Public Risk Insurance

- a) As Management Committees are appointed under the provisions of the Local Government Act, members of the Committee are automatically included in Council's Public Risk Insurance cover which extends to all properties owned or leased by Council.
- b) Council has taken Public Risk Insurance cover to the value of \$400 million.
- c) All claims covered by this policy are subject to an excess of \$50,000 per claim.
- d) Members of Committees should note that they are only covered by Public Risk Insurance when acting within the scope of their delegation.

- e) The following general information applies to the Public Risk policy:
- i) The Public Risk policy covers Council and the Committee against claims made by members of the public for personal injury or injury to personal property arising from a negligent act or omission of Council and/or the Management Committee.
 - ii) When an accident occurs, members of the Committee are instructed that are not empowered to admit liability. The following procedure is suggested:
 - Members of the public who wish to make a claim should be requested to state their claim in writing setting out full particulars of the accident (where, when and how) and the grounds on which they hold the Committee (or Council) responsible. Council will investigate and prepare a report for Council's insurer.
 - When a Committee receives a claim from a member of the public, the Secretary of the Committee should question the member/s involved and submit a report based on Council's Incident Reporting System, including photographs where appropriate, in writing to Council concerning the particular accident as remembered by the Committee member, together with a copy of the letter of claim. Specific reference will have to be made of the points raised in the claimant's claim.
 - Council is available to discuss any issues associated with insurance.

Personal Accident Insurance

Council has arranged a Personal Accident Policy to cover voluntary casual workers who are not on the Committee as well as all members of Committee appointed under the provisions of Sections 355 and 377 of the Local Government Act, 1993. Personal Accident Insurance covers Committee Members and Volunteers for personal bodily injury which results in the persons' disablement or death, whilst that person is on or travelling to or from a Council activity. Damage to motor vehicles or personal equipment is subject to the insurance policy of the individual.

Public Liability Insurance required by facility hirers

Hirers of facilities, if not meeting the definition of a 'Casual Hirer' must hold their own public liability insurance (standard cover \$20 million) and provide a copy of a current policy to the committee for their records. Hirers should be made aware that property and equipment brought onto the facility by them is not covered under Council's insurances.

If a workshop is being held in the facility, delivered by a person using their professional expertise or skill and a fee/donation is being charged this would NOT be covered under the policy. They are deemed to be providers who should have their own insurance, i.e. running a business.

Regular Hirers Insurance (including Casual)

This policy provides the public liability insurance for casual/regular hirers of Council facilities. A casual or regular hirer is a person or group of persons (other than a sporting body, club, association, corporation or incorporated body) which uses the facility for non-profit purposes.

There is no limit to the number of times this person/group can hire the facility during one year. Hirers who meet this definition will not require their own public liability insurance.

Includes; Private Social events such as Parties including 18th and 21st, Weddings and Wakes.

Property Insurance

Council's property insurance covers damage to its buildings resulting from occurrences such as storm, fire, impact, malicious damage, theft, burglary and earthquake. Each claim carries an excess (the amount not covered by the insurer). For Council this excess is usually \$50,000. The policy does not cover property owned by third parties such as persons hiring the halls or volunteers who bring their own property to the facility.

Broad Form Insurance

The purpose of the insurance is to cover hobbyists, small scale artists and home based activities that would potentially be unable to participate due to the insurance costs involved. Commercial businesses or individuals (with an ABN for example) are not included and will require their own insurance.

Council's insurance allows for up to 100 users per annum to receive insurance. To ensure that each user is covered by this insurance, the usage of this insurance must be carefully monitored. Committees should provide Council with the number of users i.e. stall holder / hobbyist / performer at each event, within one week following the event. Each user counts as 1 unit of insurance from the 100 available.

Examples of activities include:

- *Hobbyist running a workshop, charging a cover fee to cover cost and some profit would be covered.*
- *Stallholders: Activities that are not included are live animal sales, selling baby clothes/toys or play equipment, new untagged electrical goods, second-hand electrical goods, second hand tools, massage services.*
- *Performers: Individual performers at a market or event counts as 1 unit of insurance from the 100 available. A band of up to 8 members also counts as 1 unit. Activities not included are performances involving knives, swords (including theatrical knives and swords) and any use of fire.*

8 Risk Management

Risk management is a method of taking preventative and precautionary measures to avoid injury, loss and damage, to either persons or property. As a Committee of Council, the management Committee has a duty of care to ensure the health, safety and welfare of persons using the facility. This involves regular maintenance, to keep the facility and grounds safe, clean and tidy, as well as a system of inspection to detect faults and hazards at an early stage.

8.1 General

Council and Committees of Council, have a wide range of potential liability.

Liabilities can be based on statute and common law duties of care. To ensure compliance there must be appropriate policies, procedures and practices in place.

The following guidelines are provided for the Committee to use to ensure the appropriate documentation is kept to evidence the due diligence process and

ensure all responsible steps are being taken to identify the risk to the Committee and users of the facility.

8.2 Hazards

A hazard is a situation which could potentially cause injury to a person or damage to property. If a hazard requires urgent attention a warning should be placed near the hazard to alert users of the facility to the danger. The Management Committee must contact Council's Risk Management Officer for advice.

Committees are urged to apply some common-sense rules for hirers of facilities such as restacking of tables and chairs, cleaning spills from floors, rubbish removal e.g. 'chairs must be stacked in sets of no higher than x and placed against the wall'.

A routine inspection process will alert the Committee to possible dangers or faults, fire or accident, risks to users of the facility, and can be carried out periodically using a Hazard Checklist. A copy can be forwarded to Council for action if required.

8.3 Fire Protection

All Council facilities should be supplied with fire and safety equipment and information on how to use it. If this is not available Council must be notified immediately. Equipment will be inspected annually by a professional qualified contractor. This is organised by Council. If the equipment is used irresponsibly by a hirer this should be deducted from the hirer's bond.

8.4 Emergency Exits (Buildings)

All exits must be identified by an illuminated exit sign and inspected by a qualified contractor. Emergency exit routes must be kept clear at all times. Exit doors should not be barred or locked at any time while the facilities are in use.

8.5 Building Inspections

Regular inspections are essential to identify potential risks, and to assist in the defence of claims brought against Council. Inspections must be thoroughly documented. The Committee will be responsible for inspection of the facilities under their control.

Inspections may be formal or informal.

a) Formal Inspections

Inspection of the facilities under the committee's control must occur and be documented using checklists at least once every 6 months.

b) Informal Inspections

Informal inspections are incidental in the course of committee business. Any defect or problem discovered must be dealt with according to the maintenance system.

c) Safety Inspections by Hirers

It is the responsibility of the user groups/hirers to ensure that any field or facility is safe for the use immediately before and during its use. This

will include ensuring there are no holes likely to cause injury and any broken glass and other hazardous matter is removed.

8.6 Work Carried Out by Volunteers/Committee Members

Volunteers and Committees; upon arrival at a work site/work place, all volunteers/committee members shall report immediately to the person in charge of the work site/work place, i.e. the team leader supervisor etc., unless instructed otherwise.

The person in charge of the work site/work place shall ensure that the volunteers/ committee members:

- a) Fully understands all directions given to them.
- b) Are aware of and understand all safety procedures and guidelines relevant to them and the work/activities they will be undertaking.
- c) Fully understand where to find emergency equipment and the correct procedures for its use.
- d) Where required, know and understand where to find/locate all necessary amenities/ facilities.
- e) Understand what work they are expected to carry out and their responsibilities while they are in the work site/place.
- f) Are aware of and understand all relevant Council procedures in relation to the tasks/work they will be carrying out.
- g) Are made aware of any risks/hazards present in the work site/place.
- h) Where required, define areas where access is not permitted.
- i) Where required, are equipped with and/or wearing the appropriate personal protective equipment/clothing, i.e. safety boots, hard hat and hearing protection etc.
- j) Where they are required to use/operate any council tools or equipment, they have been appropriately trained and/or instructed in the correct operating and safety procedures for that type of equipment/tools.
- k) In the event of an accident does the volunteer/committee person have a medical condition which needs to be taken into consideration when receiving any treatment(s) i.e. allergies or asthma etc.
- l) The person in charge of the work site/place shall record all volunteers/committee member names and their signatures and a list of personal protective equipment/clothing and training provided, as a record that they have received and fully understand the site induction.

VARIATION

Council reserves the right to review, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.