



YOUNG SHIRE COUNCIL

COMMITTEES – SECTION 355
MANUAL

Part 1 – General
S.355 Local Government Act, 1993

How does a council exercise its functions?

A function of a council may, subject to this Chapter, be exercised:

- by the council by means of the councillors or employees, by its agents or contractors, by financial provision, by the provision of goods, equipment, services, amenities or facilities or by any other means, or
- by a Committee of the council, or
- partly or jointly by the council and another person or persons, or
- jointly by the council and another council or councils (including by means of a Voluntary Regional Organisation of Councils of which the councils concerned are members), or
- by a delegate of the council (which may, for example, be a Voluntary Regional Organisation of Councils of which the council is a member).

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FOREWORD (GENERAL MANAGER)

Young Shire Council appreciates the efforts of volunteers who become members of Community Committees. This is an important role providing a valuable contribution to the local community. Without such voluntary help the number of community facilities and programs which Council is able to establish and support would be reduced.

Young Shire Council provides advice and direction on all matters associated with Management Committees and members can seek Council's assistance in this crucial role.

This manual provides a comprehensive guide on the management responsibilities, the functions and operations of community facilities and programs and clarifies Council's role in this partnership.

Upon Council formal approval of a Community 355 Management Committee, its members are required to adopt and adhere to the conditions set out in this manual.

Under the Local Government Act 1993 Council is able to delegate some of its functions to a committee of Council. Council uses this delegation and appoints community people to manage its facilities or functions through a committee of management.

It is appreciated that not all community committees will have the same responsibilities and for this reason all clauses of this Manual will not necessarily apply or be relevant to each committee.

INTRODUCTION

1.1 GENERAL

Council has created Management Committees under its delegations bestowed under S355, S377 and S378 of the Local Government Act 1993. These Management Committees deliver to the community a range of facilities and functions.

Participation on a Management Committee is one way in which the local community can have involvement and control over the facilities and programs provided in their area.

Where the Committee manages Council facilities, the Management Committee responsible for hiring out the facility must ensure that the facility is maintained to a standard whereby Council is not exposed to public liability claims.

2 COUNCIL CONTACT

Council Officers can be contacted at Young Shire Council. Telephone 02 6382 1688.

3 DEED OF DELEGATION

YOUNG SHIRE COUNCIL

Deed of Delegation under Section 377 of the Local Government Act 1993 for the Management Committee of [insert name of facility or function].

Pursuant to Section 377 of the Local Government Act 1993 Young Shire Council may by resolution delegate to the General Manager or any other person or body (but not to another employee of the Council) certain functions of the Council including functions relating to the care, control and management of land and buildings vested in or under the control of the Council.

On Day of 200 Young Shire Council resolved to delegate [insert the care control and management of facility/or function] to a Committee comprised of those persons referred to in the schedule hereto subject to the conditions and limitations set out in this Manual and subject to compliance with the following attached Appendices.

SCHEDULE

NAME OF	ADDRESS OF	SIGNATURE OF
COMMITTEE MEMBERS	COMMITTEE MEMBERS	COMMITTEE MEMBERS

THE COMMON SEAL of the Council of

Young was hereunto affixed on the

..... Day of, 200 .., in Mayor

pursuance of a Resolution of Council

passed on 200....

General Manager

4 DEFINITIONS

In this Manual:

- “Council” shall mean the Young Shire Council.
- “Committee” or “Management Committee” shall mean that body of persons appointed in accordance with Section 7.1 of this Manual.
- “Annual use” shall mean any user granted use of any facility on a year-to-year basis.
- “Casual Hirer” shall mean those groups or individuals that have been granted use of the sporting or building facilities for a one off activity.
- “Manual” means this 355 Management Committee.

5 ROLES AND RESPONSIBILITIES OF MANAGEMENT COMMITTEES

5.1 Appointment and Election Of Management Committees

5.1.1 Formation of Management Committee

- a) The formation and appointment of Management Committees is entirely at the discretion of the Council. The Committees are appointed and reappointed in accordance with the provisions of Section 355 and Section 377 of the Local Government Act 1993.
- b) Prior to formulation of a Committee, Council must be provided with the detailed terms of reference of the proposed committee, and the Council facility or function of the Committee proposes to manage. The terms of reference should include the term of the Committee and the Council contact officer.
- c) The Committee shall be formed at a meeting of Council relevant to the proposed function or facility. Council may call the meeting by advertising locally, upon a request by citizens or at Council’s discretion.
- d) Council aims to appoint committees which are representative of the local community or interest group of the facility or function, which the Committee manages.
- e) To hold office and be responsible for the management of a Council facility or function, all committee members including new members must be appointed by Council before being able to vote or take part in the meetings of the Committee.
- f) The term of office for Management Committees will be the same term as the current Council, with the addition of an extra 3 months after the General Election of Councillors. Committee membership is on a 12-month basis and members can rejoin at each Annual General meeting. A member may nominate tenure of office, within the 4-year term, although it is expected that a member would serve a minimum of 1 year.
- g) Committee membership will not number less than 4 and not more than 12 as appointed by Council including office bearers. If more than 12

persons are nominated to the Committee, a show of hands or a ballot must be held to determine Committee members. Council reserves the right to appoint one if its members to each Committee.

- h) A person shall cease to be a member of a Management Committee if:
 - a) the member dies;
 - b) the member becomes bankrupt;
 - c) the member resigns from office by notification in writing to the Committee and Council;
 - d) the member is absent for more than 6 months without leave from meetings of the Committee;
 - e) Council passes a resolution to remove the member from the Committee;
 - f) the member holds any office of profit under the Committee;
 - g) the member fails to disclose any pecuniary interest in any matter with which the Committee is concerned and takes part in the consideration, discussion or votes on any questions relating to the matter and for the purposes of this provision "pecuniary interest" has the same meaning given to that term in Section 442 of the Local Government Act 1993;
 - h) the member while holding that office is convicted of an offence referred to part 4 of the Crimes Act 1900 (offences relating to property);
 - i) the member is prohibited by Order under Section 230 of the Corporations Law from managing a corporation within the meaning of that Section; or
 - j) The member becomes a mentally incapacitated person.
 - i) Council has the right to remove any members of the Management Committee after consultation with the Committee.
 - j) The Management Committee will ideally consist of the Office Bearers and a similar number of other Committee Members.
 - k) Young Shire Council will be ex-officio members of each Committee. However, Council reserves the right to appoint a Council representative to all Management Committees. Community representatives nominated for the committee must be citizens of the LGA.
 - l) Members of 355 Management Committees are volunteers, therefore do not receive payment for services.
- 5.1.2 Election of Office Bearers
- a) The Committee shall, from its own members, elect the office bearers of President, Secretary, and Treasurer. These positions form the Executive of the Committee. The Committee must have all 3. The Committee may from its members, elect additional positions as deemed necessary.
 - b) Particulars of all Committee nominations e.g. position, name, address and contact number, must be notified in writing as soon as possible after being elected for approval by Council.

5.1.3 Dissolution of Management Committee

- c) Council may dissolve a Management Committee at any time and for any reason. Council may do this to carry out the control of the facility itself and where Council considers the Committee is not complying with the roles and responsibilities of the Committee.
- d) The Management Committee shall be dissolved in the event of membership dropping to less than four (4) persons, unless Council specifically resolves otherwise.
- e) The Management Committee can also be dissolved by a vote of 75% of members entitled to vote present at an Extraordinary Meeting convened to considered this option.
- f) Upon a resolution being passed in accordance with clause (b) and (c) and confirmation by Council, all assets and funds of the Management Committee shall, after payment of all expenses and liabilities, be handed over to Council.

5.2 Duties and Responsibilities Of Management Committees, Office Bearers And Council

5.2.1 Responsibilities of Council

- a) Improvements and Maintenance
The Council shall be responsible for the funding improvement works and maintenance of the Council's facilities, in accordance with the adopted Plan of Management and availability of funds.
- b) Insurance of Assets
The Council shall insure all buildings and all fixtures, fittings, and contents as set out in Section 8.1
- c) Insurance of Committee Members
The Council shall insure the Committee in respect of Public Liability and Professional Indemnity.
- d) Notification of Fees and Charges
The Management Committee must notify Council of any proposed variation of hire fees proposed for the ensuing year by 30 June in each year.
- e) Improvement Recommendations
The Council shall consider with its annual budget process improvements suggested by the Committee.

5.2.2 Key Issues for Committees

- a) Health, Safety and Risk Management
As a Committee of Council, the Management Committee has a duty of care to ensure the health, safety and welfare of persons using the facilities and/or and persons involved in the carrying out of the designated function.

b) Maintenance

It is important to note that there exist possibilities for partnership with Council in the maintenance of some facilities, or carrying out of functions, e.g. a Committee may wish to put forward a proposal that Council supply the materials and the Committee provide labour in order to hasten a particular project. Innovative suggestions can be directed to the Council's contact officer.

c) Legal Issues

It is important for Management Committees to be aware that they are acting on behalf of Council. Any actions undertaken by the Committee within the scope of the delegations given by Council to the Management Committee and in accordance with the requirements of this manual, are deemed to be the responsibility of Council.

The Committee must also ensure that all activities carried out at the facility comply with the various State and Federal Acts.

The Management Committee can act only within the terms of the delegations as outlined in S377 and S378 of the Local Government Act and in accordance with the requirements of the Manual for Council Management Committees.

d) Disclosure of Interest

Details of the requirements for the disclosure of conflicts of interest by members of a Committee in any matter with which the Committee is concerned, are contained in Council's Code of Conduct. If a member has a pecuniary interest in any matter with which the Committee is concerned, he or she must disclose that interest and refrain from taking part in the consideration or discussion or voting on any question relating to the matter. If the conflict of interest of the member is non pecuniary that interest must still be disclosed and the member must then decide whether or not to partake in any consideration, discussion or vote on any question relating to the matter.

A copy of Council's Code of Conduct is attached to this Manual.

6 MEETINGS

6.1 General

The Management Committee should meet on a regular basis to discuss relevant business and make decisions affecting the facility. An agenda is to be notified to all Management Committee members at least one week prior to the meeting.

Minutes of the matters discussed will be kept and a copy available to all Committee/Association members. Any items requiring action by Council are to be the subject of a separate letter addressed to the General Manager.

A quorum will consist of half the total number of voting members plus one. Should this number of members not be in attendance at 30 minutes after the starting time, the meeting will be adjourned to the same time and place at the next scheduled meeting.

6.2 Timing of Meetings

There should be no less than four (4) meetings held each year, (however it is recommended that Ordinary Meetings of the Committees occur on a monthly basis to ensure that any outstanding matters are dealt with expeditiously).

6.3 Ordinary Meetings

Ordinary Meetings of the Management Committee are required to address correspondence, hiring of the facilities, finance matters, risk management matters and maintenance of the facility.

6.4 Annual General Meetings

The Annual General Meeting will report on the activities of the Committee for the year and to develop proposals for development and maintenance of the facility for the following twelve (12) month period.

The Annual Financial Report will be presented to the Committee for adoption.

Agendas will be sent out and minutes kept by the Secretary of the meeting with copies placed on the appropriate Council file.

The meeting may recommend new members of the Committee or put forward the current members to Council for reappointment.

A report will be presented to the Committee on the achievements of the Committee over the duration of its incumbency, together with the future aims and priorities of the current Committee for the guidance of the incoming Committee.

6.5 Extraordinary Meeting

An Extraordinary Meeting of Committee may be called to discuss urgent business and matters outside the scope of an ordinary meeting requested by two members of the Committee.

An agenda will be prepared and circulated to all members of the Committee with at least three (3) days notice. Minutes will be kept of the proceedings and a copy forwarded to Council outlining the reason for the Extraordinary Meeting.

6.6 Agenda Format

The agenda for a meeting will be notified to members giving the notice of the proposed meeting as prescribed in 6.1 and 6.6.

6.7 Minute Format

Minutes will be kept for all meeting of the Committee and a copy forwarded to Council for notation. Items to be addressed in the Minutes are as follows:

Attendance

1. Apologies
2. Minutes of Previous Meeting
3. Business Arising from Minutes
4. Notation of Correspondence
5. Business Arising from Correspondence
6. Report of Executive Members
7. General Business
8. Date of Next Meeting

7 COUNCIL POLICIES

7.1 No Smoking

Council has resolved that all buildings and vehicles/plant are to be "Smoke Free" and as such the Committee is required to enforce this Resolution and ensure that all smoking is carried in the open.

7.2 Anti Discrimination and Equal Employment Opportunity

Discrimination means being treated less favourably and unfairly.

The Anti Discrimination Act 1977 (NSW) is designed to promote equality of opportunity for all people. Under the Act, it is illegal to discriminate on the grounds of:

- sex;
- pregnancy;
- marital status;
- physical or intellectual impairment
- homosexuality (male or female, actual or presumed);
- race, colour, ethnic or ethno-religious background;
- age (but only in relation to compulsory retirement).

Sexual Harassment is also illegal under this Act:

- Racial Discrimination Act 1975;
- Sex Discrimination Act 1984;
- Human Rights and Equal Opportunity Commission Act 1986;
- Affirmative Action (Equal Opportunity for Women) Act 1986

- Disability Discrimination Act 1992

Discrimination or unfair treatment may be direct or indirect. Direct discrimination occurs when, for example, a person is refused a job or access to your facility simply because they have a disability. Indirect discrimination occurs when requirements (selection criteria, for example) practices or policies which seem neutral have an effect which actually results in disadvantaging particular group of people.

Both direct and indirect discrimination are against the law. The anti-discrimination laws cover both your employment practices and the way in which your services/programs or facilities are provided. Are they accessible and available equally to everyone?

The Management Committee needs to understand what direct and indirect discrimination is.

The Management Committee needs to understand the impact of anti-discrimination law on its hiring practices and policies and the way in which the facility's services are provided.

Council has an Equal Employment Opportunity Policy which will require the Committee to comply with this policy in the selection of contractors or election of Committee members.

7.3 Illegal Drug and Alcohol Use

Council has a policy on the prohibited use of illegal drugs and alcohol by Council staff. This applies to Council's Management Committees when carrying out their duties as Committee members.

7.4 Health

The good health of all the participants using Council's facilities is paramount. All efforts are to be made to identify any areas of the facility which may endanger health and report to Council for rectification as soon as possible.

Inspections by Council staff will be carried out on a periodic basis, however, the Management Committee must ensure there is no risk to the health of the users of the facility.

In order to reduce the risk of health problems associated with the operation of Council's facilities the following guidelines should be adhered to:

7.4.1 Toilets and Showers

Toilets and showers are to be kept in a clean and hygienic condition.

7.4.2 Effluent Disposal

- No primary treated effluent should be discharged to the surface of the ground.
- Effluent disposal systems must be managed and maintained in a way that does not create a public health risk or pollute any water courses.

- Septic tanks should be desludged every 3 to 5 years.
- All approvals issues for effluent disposal systems should be adhered to.

8 CONTRIBUTION/OWNERSHIP

Sporting or Community groups contributing items for the permanent embellishment of facilities will be informed by the Committee that such a contribution will become the property of Council and will not be for that group's exclusive use.

Date Adopted: 16.2.05
Date Reviewed: 14.5.09

Resolution No: 32/05
Resolution No: 122/09