

# Board committees

## (3) An overview

### Guidance note for boards of major DELWP agencies

This guidance note is for use by board members of the over 100 major public entities and other statutory boards, committees, councils, panels, etc. in the Department of Environment, Land, Water and Planning (DELWP) portfolio, including large (category 1 and 2) committees of management of Crown land reserves.

Guidance notes and model policies for major agencies can be downloaded from DELWP's governance website, On Board ([www.delwp.vic.gov.au/onboard](http://www.delwp.vic.gov.au/onboard)), in particular, see the [Board committees](#) support module.

### Overview

This guidance note provides general information on the use of board committees.

#### Establishing Act

Sometimes, an agency's establishing Act contains specific provisions in relation to the use of board committees, for example:

- the type of committees that may/must be established
- rules that a committee must follow
- membership requirements
- the powers, if any, that the board may delegate to the committee, or members thereof.

If this is the case for your agency, please keep these requirements in mind when reading this guidance note.

*Catchment management authorities:* DELWP offers a specific guidance note for catchment management authorities, which is available from the [Board committees](#) support module.

#### Other binding obligations

When reading this guidance note, please be aware that other binding obligations may also apply to your agency that contain requirements about committees, e.g.:

- section 83 of the *Public Administration Act 2004* (PAA)
- *Financial Management Act 1994* (FMA) and related Standing Directions.

### Terms of reference

When establishing a committee, it is basic good governance practice for the board to develop written *Terms of Reference* for the committee.

The committee's terms of reference must be consistent with the agency's establishing Act and with any other binding obligations.

Key elements of a committee's terms of reference include:

### Purpose and functions

The specific purpose and functions of each committee should be clearly set out in its terms of reference.

Generally speaking, the overall purpose of a board committee is to:

- gather and analyse information in relation to an important and/or sensitive matter which the board needs to make a decision about
- then make recommendations on the matter for the board to consider.

It is important to note that a committee has no power to make a decision on behalf of the board, unless the board gives it a written delegation to do so (see next page). Unless this occurs, the committee's role is purely advisory – i.e. it makes decisions on what to advise/recommend to the board but it **never** makes decisions on behalf of the board.

### Membership

Subject to the agency's establishing Act and other binding obligations:

- The board chooses, appoints, and has the power to remove members of its committees.
- A board committee can include:
  - board members
  - other people with relevant expertise.
- It is good governance practice for:
  - the majority of a committee's members to be board members
  - staff (including management) to attend committee meetings, or parts thereof, in an advisory and/or secretariat capacity, rather than as a member of the committee itself. (Some exceptions apply, for example: managing directors of water corporations, as they are board members; certain committees established by catchment management authorities.)

### Policies and procedures

The terms of reference should specify the policies and procedures that the committee must follow.

Unless the establishing Act or other binding obligations set specific requirements, the board can determine the rules which a committee must comply with.

As a general rule, the board should require its committees to follow the same policies and procedures as the board itself in particular, the same policies on:

- Meetings and decisions
- Conflict of interest
- Gifts, benefits and hospitality.

Usually, a board committee is chaired by a member of the board and the minutes of a committee's meetings (or summary report thereof) are provided to the board at its next meeting.

Overall, the policies and procedures that apply to a board committee:

- must be consistent with the principles of good public sector governance practice in the PAA

- must be consistent with the agency's establishing Act and other binding obligations
- should be consistent with DELWP's model policies (e.g. Meetings and decisions; Conflict of Interest; Gifts, benefits and hospitality).

### Duration

The terms of reference should set out whether the committee is:

- standing (ongoing), or
- limited term (e.g. is established for the duration of a particular project).

In some cases, there may be a binding obligation on the board to have a standing committee for a particular purpose – e.g. if the FMA applies to your agency, the board is required to have a standing **audit** committee with certain functions that will help to ensure the financial probity of the agency. Such committees are often constituted as risk and audit committees.

### Delegations

There are some instances in which the board can authorise individual members of a committee or the committee 'as a whole' to make certain decisions on its behalf, for example:

- section 83 of the PAA enables the board of a public entity to delegate any of its functions, except the power to delegate, to committee members who are also board members. Delegation must be made by instrument in writing. Most DELWP major agencies are public entities.
- some establishing Acts include express powers of delegation - e.g. the *Catchment and Land Protection Act 1994* sets out specific powers of delegation for the boards of catchment management authorities
- if the FMA applies to your agency, certain financial delegations may be made.

The board must ensure that any delegations it makes are consistent with the board's powers and functions and with any other requirements in the establishing Act or other binding obligations, and are made by written instrument.

Ultimately, the board is accountable for all its decisions, *even those made under delegation*.

### Further information

This guidance note and other resources on this topic are available from the [Board committees](#) support module on On Board ([www.delwp.vic.gov.au/onboard](http://www.delwp.vic.gov.au/onboard)).

Guidance on other key governance topics is also available from On Board.

DELWP also offers support to its agencies through DELWP divisions and regional offices. Please contact your agency's usual DELWP relationship manager or team or phone the Customer Service Centre on 136 186.

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This document is available from the internet at [www.delwp.vic.gov.au/onboard](http://www.delwp.vic.gov.au/onboard)

For more information contact the DELWP Customer Service Centre 136 186

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