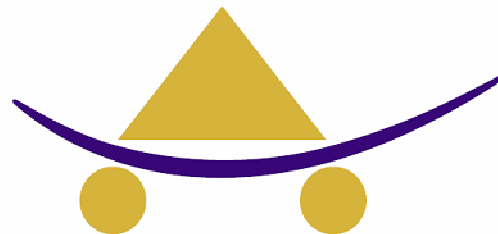




Department of Consumer  
and Employment Protection  
Government of Western Australia

# “Make Your Own Rules” Consultation Report

June 2008



**Aha! Consulting**

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### Acknowledgements:

- The delegates from across the state that attended and contributed to the Model Rules forums.
- Dr Elliot Wood and Tom Milton who assisted with the data analysis.
- Sally Scott who assisted with project management.
- Stephany Durack who has been the primary DOCEP contact in the project and project leader in relation to the *Associations Incorporation Bill 2006 (the Green Bill)*.
- The thousands of Incorporated Associations who collectively make a difference to the lives of the entire community of Western Australia every day.

**Report Author:** Joel Levin



P (08) 9443 9474  
F (08) 9443 9475  
PO BOX 2031 DOGSWAMP 6060  
[info@ahaconsulting.net.au](mailto:info@ahaconsulting.net.au)  
[www.ahaconsulting.net.au](http://www.ahaconsulting.net.au)

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## Definition of Terms

**‘Constitution’ & ‘Rules of Association’:** Are both terms used to describe the document an Association develops to guide how the Association will conduct its affairs, make decisions and ensure it is meeting its obligations to Members and the *Associations Incorporation Act (1987)*. In this document the term constitution will be used.

**‘Model Rules’:** Refers to a generic constitution that will be legally drafted and developed to comply with the proposed amendments to the proposed new *Associations Incorporation Act 2006 (current called the Green Bill)*.

**Green Bill<sup>1</sup>:** The Green Bill or the *Associations Incorporation Bill 2006 (the Green Bill)* is draft legislation that is proposed to replace the *Associations Incorporation Act 1987*.

**Associations Incorporation Act<sup>2</sup> (1987):** This Act allows Associations, such as community, recreation, sporting and not-for-profit clubs and societies, to incorporate as legal bodies, and limit the liability of Members for lawful activities.

**The Department or DOCEP:** Refers to the Consumer Protection Division of The Department for Consumer and Employment Protection.

### Terminology:

**Associations** - whilst there is a range of possible synonyms for an Incorporated Association, the primary definition for the purpose of this consultation will be “Any group that is incorporated under the Western Australian *Associations Incorporation Act (1987)*”.

Possible synonyms for an Association:

- Not-For-Profits
- Community benefit organisations
- Charities
- Non-government organisations
- Groups
- Societies
- Federations
- Conferences
- Councils
- Clubs

<sup>1</sup> Source: [http://www.docep.wa.gov.au/consumerprotection/associationsreview/pages/bill/green\\_bill.html](http://www.docep.wa.gov.au/consumerprotection/associationsreview/pages/bill/green_bill.html)

<sup>2</sup> Source: <http://www.docep.wa.gov.au/ConsumerProtection/AssociationsReview/index.html>

## 1. Executive Summary

In 2007 the Consumer Protection Division of the Department of Employment and Consumer Protection (DOCEP) released a set of draft Model Rules for community consultation. These draft Model Rules were prepared by Jackson McDonald Law Firm and were aligned to the current draft of the *Associations Incorporation Bill 2006 (the Green Bill)*. This consultation process has been called “Make Your Own Rules” and was conducted by Aha! Consulting on behalf of and in partnership with DOCEP.

This consultation process was initiated to ensure that Incorporated Associations were given an opportunity to contribute to the development of the Model Rules. The Model Rules once drafted will provide Associations with a ‘model constitution’ designed to assist new or existing Associations to align their constitutions to the proposed new Associations Incorporation Act (once it has passed through Parliament).

This report provides the findings of this consultation process and the recommendations made by the delegates to the Model Rules forum. Delegates were selected from across the state to provide a balance between a range of Association types, sizes and geographic locations.

As these Model Rules needed to be suitable for a broad range of Association types, sizes and organisations, the consultation process was designed to engage these Associations and other stakeholders to answer the following question:

**“Are the draft Model Rules suitable for the range of Incorporated Associations in WA?”**

Suitability in this instance was defined by the following criteria:

- **Accessibility**: Are the draft Model Rules easy to understand?
- **Balance**: Is there a sufficient balance struck between prescribed requirements and an Association's autonomy?
- **Applicability**: Are the draft Model Rules applicable across the broad range of sectors in WA, without overly advantaging or disadvantaging a particular sector?
- **Coverage**: Have any important constitutional matters been overlooked?

It is evident that there is ongoing interest in the final make up and design of the proposed new Associations Incorporation Act. As a specific consultation process has been conducted in relation to the Green Bill in 2006, any comments received that pertain to amendments to the Green Bill have been forwarded separately to the relevant people within DOCEP.

There were 126 respondents to the survey and approximately 120 people that attended an information session in relation to this process. The survey respondents had a high level of representation from Health/Aged Care but also represented the range of sectors, sizes of Associations, gender and geographical locations. Some 42% of the samples were people involved in the delivery of services to regional areas and 31% of respondents lived in regional WA.

There were 40 delegates selected to represent the range of Associations across the state at a full day forum. These delegates were chosen from 65 nominations and were asked to provide a set of recommendations for the refinement of the Model Rules on behalf of the sector. Delegates were provided a summary of the survey results in advance of this forum.

The recommendations included in this report (summary on page 8) will be presented to the Minister for Consumer Protection, Hon Sheila McHale, MLA. The Consumer Protection Division of the Department has committed to give full consideration to these recommendations.

### ***1.1. Are the Draft Model Rules suitable for the range of Incorporated Associations in WA?***

The survey findings and the response of forum delegate show a high level of support for the draft Model Rules. Over 77% of survey respondents agreed that the draft Model Rules were a good set of guiding principles for both their Association and for most Incorporated Associations. On average, forum delegates rated the suitability of the draft Model Rules 9.1 out of 10 at the conclusion of the forum (8.5 on commencement).

In terms of **Accessibility** over 70% found the draft Model Rules easy to understand. Less than 5% of respondents reported that the draft Model Rules lacked clarity with regard to meeting legal requirements of incorporation. Less than 20% of respondents reported requiring further information to fully understand the draft Model Rules. On average, forum delegates rated the accessibility of the draft Model Rules 8.4 out of 10 at the conclusion of the forum (7.8 on commencement).

In terms of **Balance** there was almost the same number of respondents that viewed the draft Model Rules as balanced (34%) as the number that viewed them as prescriptive (31%). 13% found them overly prescriptive and 21% of respondents suggested the draft Model Rules were flexible. On average, forum delegates rated the balance of the draft Model Rules 9.0 out of 10 at the conclusion of the forum (7.3 on commencement).

In terms of **Applicability**, results were mixed. Some differences between Association type, turnover and location of activity are reported in relevant sections, however it should be noted overall that whilst approximately 43% of respondents suggested only minimal changes would be required by their Association to align to the draft Model Rules, some 37% disagreed that this was the case. The most common comment expressed by respondents was a concern about the additional impost of time in complying with the draft Model Rules, especially for smaller Associations. On average, forum delegates rated the applicability of the draft Model Rules 8.3 out of 10 at the conclusion of the forum (7.3 on commencement).

In terms of **Coverage**, only 51.9% of the respondents felt there were no major gaps in the draft Model Rules. There was a large neutral vote and 15% felt there were some gaps. Seven sections of the draft Model Rules were identified by more than 10 respondents as requiring either some or significant change. These sections were:

- Section 15 'Public Officer' ( n17)
- Section 21 'Funds and accounts' (n16)
- Section 3 'Becoming a Member' (n15)
- Section 24 'Winding up and distribution of surplus property' (n12)
- Section 10 'Role and responsibilities of Committee Members' (n12)
- Section 8 'Resolving disputes' (n11)
- Section 9 'Powers and composition of the committee' (n11)

On average, forum delegates rated the coverage of the draft Model Rules 2.1 out of 10 at the conclusion of the forum (4.1 on commencement). In this instance the question posed was reverse scored and as such this is a positive response.

Two observations from the delegate forum sat outside the specific feedback on the consultation questions and content of the draft Model Rules.

1. The delegates strongly supported the need for a well resourced and designed implementation strategy. There was agreement that Associations will need education, tools and a range of support resources to enable an effective alignment of their constitutions with the Model Rules.
2. There was obvious confusion amongst delegates (and hence reflective of other Associations) about the compulsory/optional element of the draft Model Rules. There appeared to be four clear messages for any education campaign
  - a. Associations do not need to follow the draft Model Rules and are able to draft ANY clauses for their Association as long as the clauses comply with the Act.
  - b. Schedule 3 of the Green Bill provides for certain matters that must be dealt with in the constitution of every Association. Associations without a relevant clause in their constitution that is required under Schedule 3, will be legally bound by the relevant clause within the Model Rules that deals with that particular Schedule 3 requirement.
  - c. As such, the Model Rules specify compulsory clauses and optional clauses.
  - d. Clarification is required on what happens if an Association's constitution is silent on a clause that has options provided within the Model Rules.

## 1.2. Forum Recommendations

Recommendation 1: No age restriction to be placed on Association or committee membership in the Model Rules. This choice should be left to individual Associations.....21

Recommendation 2: The Department to consider developing some guidelines (separate to the Model Rules) for Associations that have Committee Members who are younger than 18 years of age. ....21

Recommendation 3: The committee selection process outlined in the Model Rules be indicated as options. The Association should be left to decide how to elect/appoint office bearers and/or Committee Members.....21

Recommendation 4: The Model Rules do not specify the need for an annual ‘forward’ budget to be presented at an AGM for endorsement by Members. This can be an individual choice of each Association.....22

Recommendation 5: The Model Rules leave the dispute resolution options as currently written.....22

Recommendation 6: Section 21.2b.(i) be changed to capture the intent of the following. *“All monies be recorded/accounted for as taken and expended. The final amount is to be deposited as soon as practicable”*. ....24

Recommendation 7: Section 21.2b.(ii) be changed to capture the intent of the following. *“Associations need to ensure that all monies received are recorded/accounted for appropriately”* .....24

Recommendation 8: The clauses dealing with dual signatories be retained. ....24

Recommendation 9: Make the requirement for written membership application optional and provide options for both formal and informal processes.....24

Recommendation 10: An optional clause should be added to assist Associations to consider if it is appropriate for employees to be Committee Members due to the conflict of interest that may arise.....25

Recommendation 11: Review the conflict of interest section, to make a distinction between impartiality and conflict of interest. Consider the local government definitions and process. ....25

Recommendation 12: Review the layout of section 9 ‘Powers and composition of the committee’ to more clearly specify the mandatory and optional elements.....26

Recommendation 13: Review the layout of section 11 ‘Appointment to committee’ to more clearly specify the mandatory and optional elements. ....26

Recommendation 14: In relation to clause 13.5(e). The default position should be to allow all Members to attend committee meetings. Associations are free to amend this at their discretion or to specify that certain sections of the meeting may be held in camera.....27

Recommendation 15: That a provision for postal voting should be added as an optional rule.27

Recommendation 16: Provisions for proxy votes to be retained. The Department to consider the following limitations to proxy voting: Unlimited directed proxies and a limit of five discretionary proxies. ....27

Recommendation 17: Codes of conduct and governance guidelines are an important aspect of effective running of Associations and DOCEP to consider the development of a governance charter.....27



## 2. Background<sup>3</sup>

The present *Associations Incorporation Act 1987* came into operation in Western Australia in 1988 and replaced the original 1895 Act. The *Associations Incorporation Act 1987* provides a framework of regulation for not-for-profit organisations such as sport and recreation clubs, societies and community groups in Western Australia, yet leaves the internal management of Associations largely to the Members. It allows an Association to incorporate as a separate legal body and limits the liability of its Members for lawful activities.

The Associations Incorporation Bill 2006 (the Green Bill) is the draft legislation that details proposed changes to the *Associations Incorporation Act 1987*. This document is not the Government's final position, but reflects earlier consultation with local Associations, similar Acts in other States and Territories, problems that have emerged in administering the Act and changing community expectations of Associations.

The Green Bill was released for public comment in 2006 and more than 300 submissions were received. These submissions have directly influenced the drafting of a new Bill that will replace the *Associations Incorporation Act 1987*. A White Bill is currently being drafted and will be introduced into Parliament once it receives legislative priority.

As these changes will affect any Association that is incorporated under the *Associations Incorporation Act (1987)* a set of "Model Rules" is being developed to assist Associations to align their own constitutions with the new Act once introduced into and passed by Parliament. These Model Rules will provide new Associations with a template to develop their own constitution or in the instance of existing Associations, to review their existing constitution.

The Model Rules will be a guide for Associations and have been drafted by the firm Jackson McDonald Lawyers to reduce the cost to Associations and to ensure a high quality fit between the Act and the clauses in the Model Rules. Under the new Act it is intended that Associations will have the option of<sup>4</sup>:

- Adopting the Model Rules (and inserting relevant details where applicable); or
- Drafting their own constitution provided that the constitution complies with the requirements of Schedule 3 of the Act and the Act generally; or
- Including some of the optional rules provided in the Model Rules and inserting additional details where relevant, provided that the constitution complies with the Act..

Importantly, under the proposed new legislation, if the constitution of an Association is silent on an issue which is required to be dealt with in the constitution under Schedule 3 of the Act, it is intended that the Model Rules will apply. This means that should the constitution of an Association be lacking a specific clause which is required under Schedule 3 of the Act, the

<sup>3</sup> Based on information gathered from Consultation Guide – Your views sought on the Associations Incorporation Bill 2006. (Executive Summary); Draft Model Rules for the Associations Incorporation Bill December 2007

<sup>4</sup> Source: [http://www.docep.wa.gov.au/ConsumerProtection/AssociationsReview/media/Jack\\_Mc\\_present.pdf](http://www.docep.wa.gov.au/ConsumerProtection/AssociationsReview/media/Jack_Mc_present.pdf)

relevant clauses dealing with that matter in the Model Rules will form part of the constitution of that Association.

The final version of the Model Rules needs to be suitable for a wide range of organisations, sectors and governance structures. The Model Rules will also need to provide a balance between guiding the required alignment to the amended Act, and allowing sufficient flexibility for the range of Associations to conduct their affairs in a manner that they deem is best suited to the achievement of their specific objectives.

Given the prospective breadth of application for these Model Rules the following consultation objective was established:

## 2.1. Consultation Objective

To engage a range of stakeholders in a consultative process to determine:

**“Are the draft Model Rules suitable for the range of Incorporated Associations in WA?”**

Suitability in this instance was defined by the following criteria:

- **Accessibility:** Are the draft Model Rules easy to understand?
- **Balance:** Is there a sufficient balance struck between prescribed requirements and an Association's autonomy?
- **Applicability:** Are the draft Model Rules applicable across the broad range of sectors in WA, without overly advantaging or disadvantaging a particular sector?
- **Coverage:** Have any important constitutional matters been overlooked?

Another focus for the consultation will be to seek some guidance on the type and nature of implementation support materials and resources the range of Associations will require.



### 3. Methodology

The following approach was developed in due consideration to the diverse nature and geographical breadth of the stakeholders in this process. There are over 15,000<sup>5</sup> Incorporated Associations in Western Australia that range in size from small entirely volunteer run organisations to large organisations with hundreds of staff and a significant turnover and assets.

This consultation process aimed to engage as broad a spectrum of this diversity as possible, whilst still allowing for sufficient depth of deliberation on the final design of the Model Rules.

#### 3.1. *Scope of Consultation*

In 2006, a separate consultation process was conducted in relation to the Green Bill. As such this consultation process focused on the suitability of the draft Model Rules for the range of Incorporated Associations in WA.

Whilst it is evident that there is still interest in the final make up and design of the proposed amendments to the *Associations Incorporation Act (1987)*. Any comments received that pertain to the amendments to the Green Bill do not form part of this report and have been forwarded to DOCEP.

#### 3.2. *Level of Influence*

The process is designed to provide recommendations directly to the Minister for Consumer Protection, Hon Sheila McHale, MLA about potential refinements to the draft Model Rules. The Minister and the Department will analyse and determine how best to respond to these recommendations. The Consumer Protection Division of the DOCEP has committed to give full consideration to these recommendations.

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<sup>5</sup> Source: <http://www.docep.wa.gov.au/ConsumerProtection/AssociationsReview/index.html>



### **3.3. Consultation Process**

The process has the following stages. This report signifies the commencement of stage three.

#### **1. Awareness raising and dissemination**

Through a range of channels the first task was to inform as many stakeholders as possible about the consultation process.

##### **Public Advertisements**

Adverts appeared in the Government Section of the West Australian newspaper on December 13<sup>th</sup> 2007 and January 23<sup>rd</sup> 2008.

##### **Web Site**

On December 7<sup>th</sup> 2007, the information dissemination began with the launch of the updated website. This website included copies of:

- The draft Model Rules.
- Access to the feedback survey.
- 'Your Views in Summary' – a summary of the feedback received in the previous consultation phase for the Green Bill.
- Access to the forum nomination form.
- The Terms of Reference for the Model Rules forum.

Also available on the website were the PowerPoint® presentations made at the information sessions.

##### **Electronic Correspondence**

Electronic communication with stakeholders has been ongoing since the Green Bill consultation in 2006. People were first notified of the proposed consultation on October 15<sup>th</sup> 2007.

The information relating to this consultation process was sent electronically to a stakeholder database of over 300 people. This database included over 30 communication partners (e.g. Government Departments from across sectors, Local Government offices, Peak bodies (e.g. WACOSS, Sports Federation, Chamber of Commerce and Industry) and Associations who had been involved in the Green Bill consultation). Each of these partners had committed to forwarding the information on to their respective/relevant databases.



## Postal Correspondence

Approximately 15,000 Associations were sent a hard copy (by mail) of the 'Associations Info', a newsletter, that explained the process and how people could become involved.

Consultation kits were also provided to over 300 individuals and organisations that contributed to the Green Bill consultation conducted in 2006.

## Information Sessions

Four information sessions were held for the public and interested parties to attend. Approximately 250 people attended these sessions, where an overview of the process and focus of the consultation was provided.

The dates and venue for these information sessions were as follows:

- December 6<sup>th</sup> 2007 at the CPA Australia Not-for-Profit Sector Conference
- December 13<sup>th</sup> 2007 at the Alexander Library
- February 6<sup>th</sup> 2008 at the Alexander Library
- February 6<sup>th</sup> 2008 at the Ethnic Community Council of WA

## Hard Copy Access

Hard copies of the draft Model Rules and all supporting materials were also made available in all public libraries in the state and could be posted by request when people called DOCEP Regional Offices or the Consumer Protection Advice Line on 1300 30 40 54.

## 2. Collection and analysis of feedback

As described above, electronic and print versions of the feedback survey were made available. Further to this, 200 Associations were randomly selected using a stratified sample, offering a small incentive for their response. This was undertaken to encourage a broader spectrum of responses. Of the 200 sent, eight responses (4%) were received. This incentive was won by the Donnybrook Community Telecentre.

The survey was opened on December 5<sup>th</sup> 2007 and closed on February 29<sup>th</sup> 2008. In two instances an extension was requested and granted until March 5<sup>th</sup> 2008. There have been 126 responses to the survey in total and the analysis is available on page 28 of this document.



### 3. Representative and deliberative process

A decision was taken to host a one day Model Rules forum, in preference to a series of two hour information sessions. Given the level of detail under consideration in this consultation process, the depth of feedback able to be discussed at a two hour information session would have been considerably less than the information discussed in a day long process.

Through the communication channels outlined above, prospective delegates were asked to nominate by February 15<sup>th</sup> 2008. Nominations to be part of the forum were open to anyone. Terms of reference were developed for the forum and provided to nominees as part of the nomination process.

A total of 65 applications were received. From these, Aha! Consulting, independently sampled the delegates to achieve the optimal blend from the following criteria:

- Sizes of Association (Small, Medium, Large)
- Various activity areas/sectors
- Cultural and linguistic diversity
- Indigenous perspectives
- Regional and Metropolitan groups
- People with specialised expertise in the area

Further to this two additional criteria were added:

- Ensure there are 10 representatives of Regional WA that live in Regional WA.
- Ensuring people from CALD and/or an Indigenous background.

Based on these criteria 40 delegates were selected to attend a one day forum that was held on May 30<sup>th</sup> 2008. Four Staff from DOCEP were selected to be part of the forum for their specialist knowledge and experience with the full cross section of the Associations incorporated under the Act.

For a full list of delegates please see page 56 of this report.

### 4. Compilation of outcomes and advice

This report represents the compiled feedback and recommendations from both the survey and forum process. This report will be provided to the Minister for Consumer Protection and will inform the development of the final version of the Model Rules.

A copy of this forum report will be made available to all delegates and people who requested a copy through the survey process. The report will also be published on the DOCEP web site. [www.docep.wa.gov.au](http://www.docep.wa.gov.au).



## 4. Delegate Forum

As mentioned on page 14 of this report, the use of a full day forum was identified as the preferred strategy to progress the consultation process. The forum was held on May 30<sup>th</sup> 2008 and attended by 36 of the 40 invited delegates. For a full list of delegates please see page 56 of this report.

Prior to the forum, delegates received a briefing pack and access to;

- The Green Bill
- The draft Model Rules
- The pre-forum consultation report – summarising the survey feedback.

The process for nominating and selecting delegates is outlined on page 14 of this report.

### 4.1. *The Delegates Brief*

Whilst delegates were selected for representativeness of a particular sector/s they were not selected to represent that sector/s. The role of the delegates at the forum was to determine what structure, content and format for the Model Rules would be in the best interests of the range and breadth of Incorporated Associations in the state.

More specifically delegates were asked to;

- Reflect on the draft Model Rules and their view in terms of their suitability (as defined on page 10).
- Read and consider the implications of this report on the final drafting recommendation for the draft Model Rules.
- Make recommendations to the Minister and DOCEP as to the final drafting of the Model Rules.

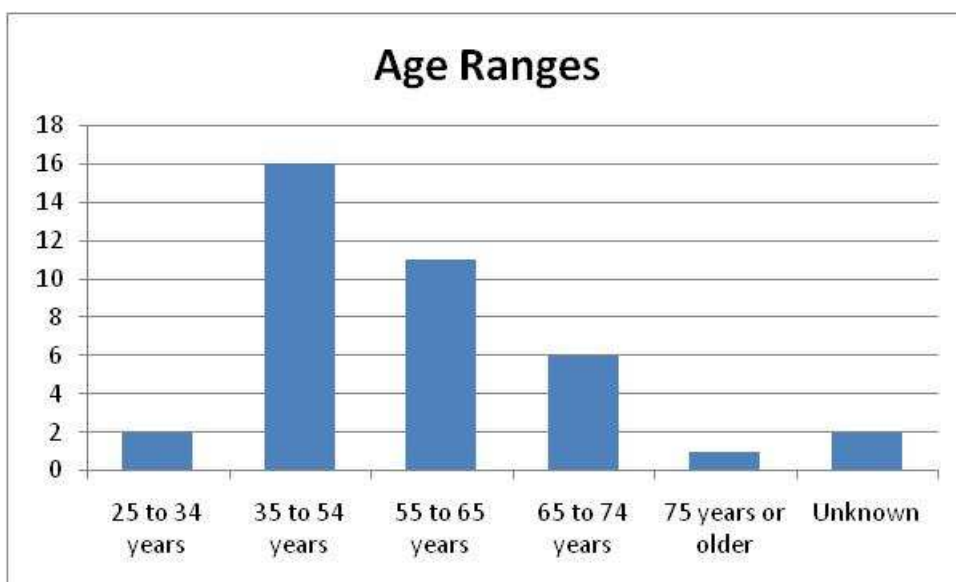
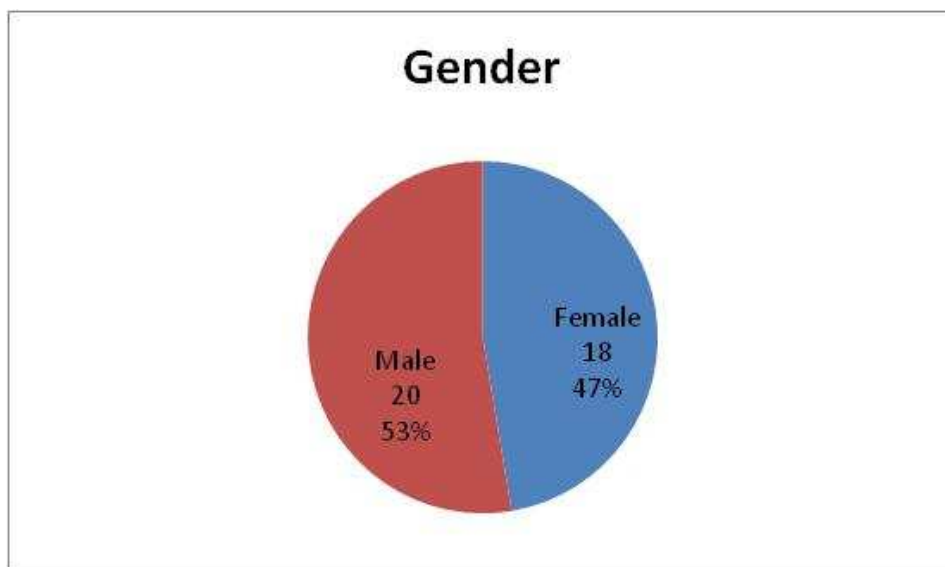
## 4.2. Context to the discussions.

At the forum Gary Newcombe, Director Policy & Strategic Development DOCEP provided an update on the Department's response to the Green Bill consultation. An official document setting out the policy changes will be publicly released. However, the following elements were presented to the forum as they had the potential to affect the delegates deliberations.

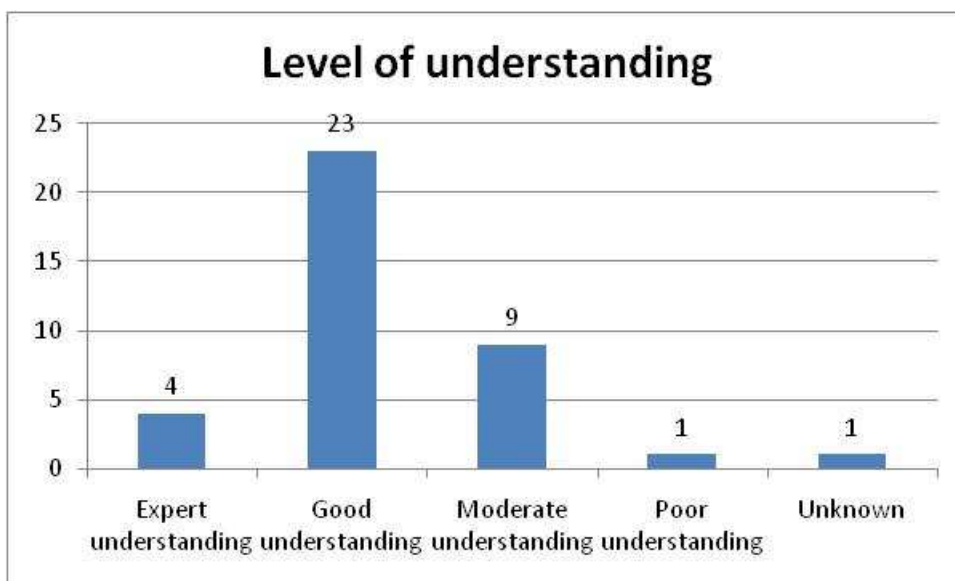
1. Revisions are still being made to the final policy position and when the policy position is finalised and the legislation passed (as amended to be in line with the policy changes), the Model Rules will also change to come into alignment with the final policy position. The proposed changes to the policy position have been passed by DOCEP to the Minister.
2. The concept of the Public Officer will be deleted from the planned legislation. Incorporated Associations will still be required to furnish some type of annual advice to DOCEP to confirm the ongoing operation of the Association and to provide information of its office holdings.
3. The penalties outlined in the Green Bill are being reviewed to ensure that they are broadly consistent with penalties in other Australian jurisdictions.
4. The three tiered approach to auditing obligations has been reduced to two tiers. Associations will be judged on annual income/turnover not on total worth (ie: including assets). Associations with income/turnover of more than \$500,000pa will be required to have their books professionally audited each year and a formal audit report submitted to DOCEP each year. Associations with an income/turnover of less than \$500,000pa will only be required to keep their books in a manner that would allow them to be professionally audited, if required. This is the current requirement for all Associations.
5. Associations will be given an 18 month period after the date of the Bill's enactment to make any required changes to their constitution. It is expected that the majority of existing Associations will have to make few, if any changes. A special dispensation has been considered that will allow management committees to make the required changes without requiring a Special General Meeting to be called. However, any changes made by management committees would need to be reported to Members at the first Annual General Meeting or General Meeting held after the changes are made.
6. The Model Rules, once amended for the latest updates to the Act, form a critical part of the new legislation. For all constitutional issues identified in Schedule 3 of the Model Rules as mandatory, the Model Rules will apply if the Association's constitution is silent on the matter. The Association's constitution can take a different position to the Model Rules as long as it fully complies with the Act.

### 4.3. Delegate Representativeness

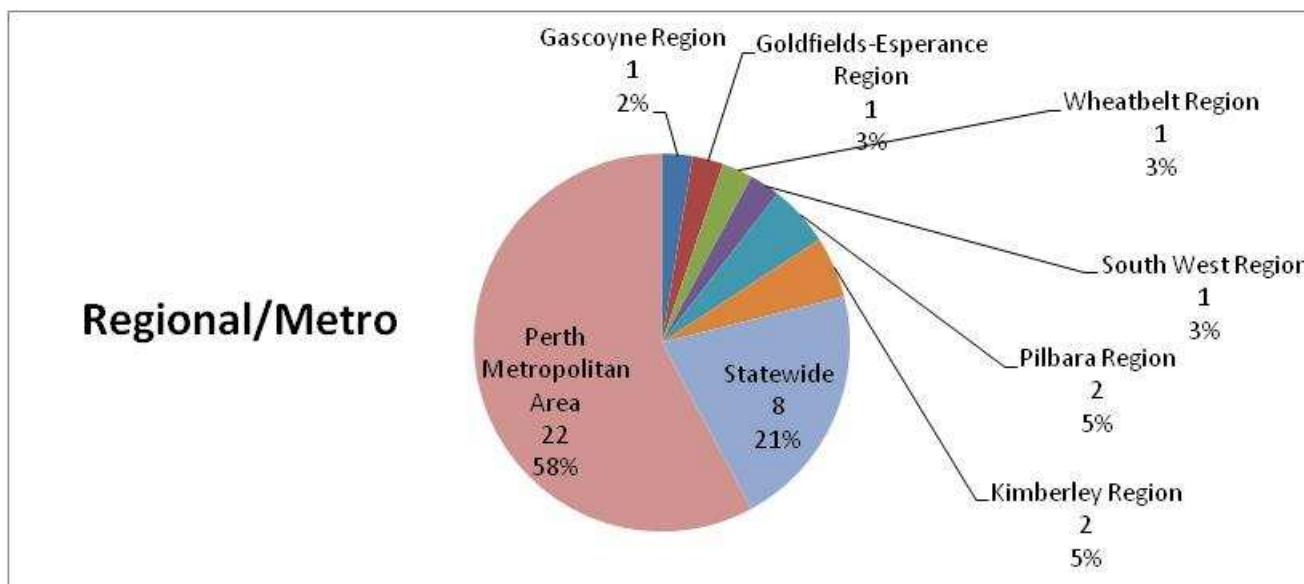
The following charts show the make-up of the delegates selected to attend the forum. As can be seen there is a strong gender balance and the age range follows a distribution curve with a weighting toward people over the age of 34 years.



As can be seen by the following chart the majority of delegates described their level of understanding of governance as good.

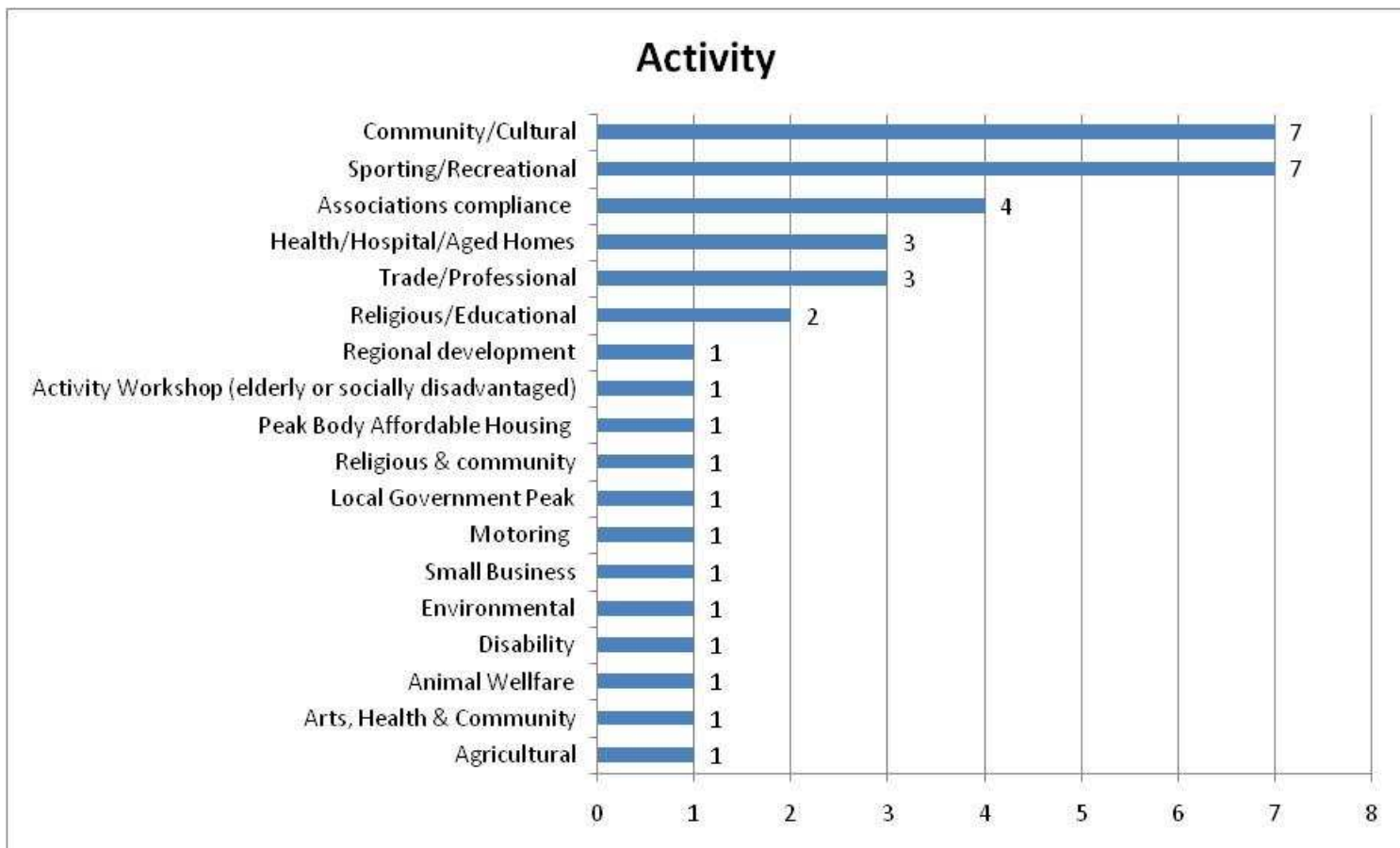


As can be seen by the chart below there is a good balance of regional and metropolitan focus for Associations with 16 of the 40 delegates (42%) focused on a state-wide delivery or a specific regional area.

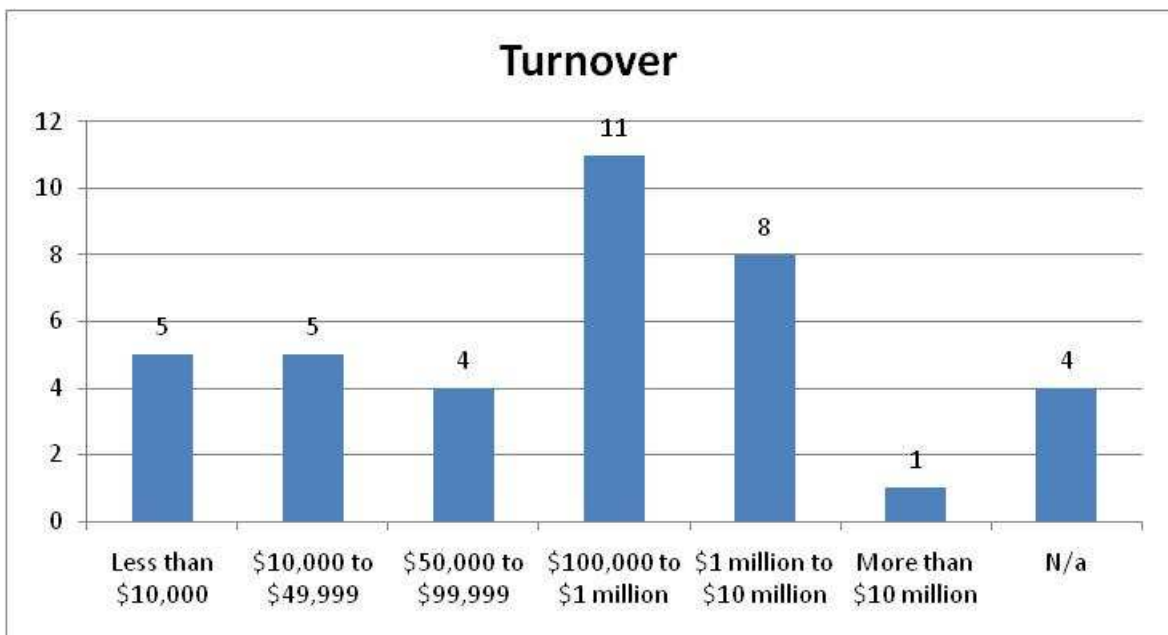
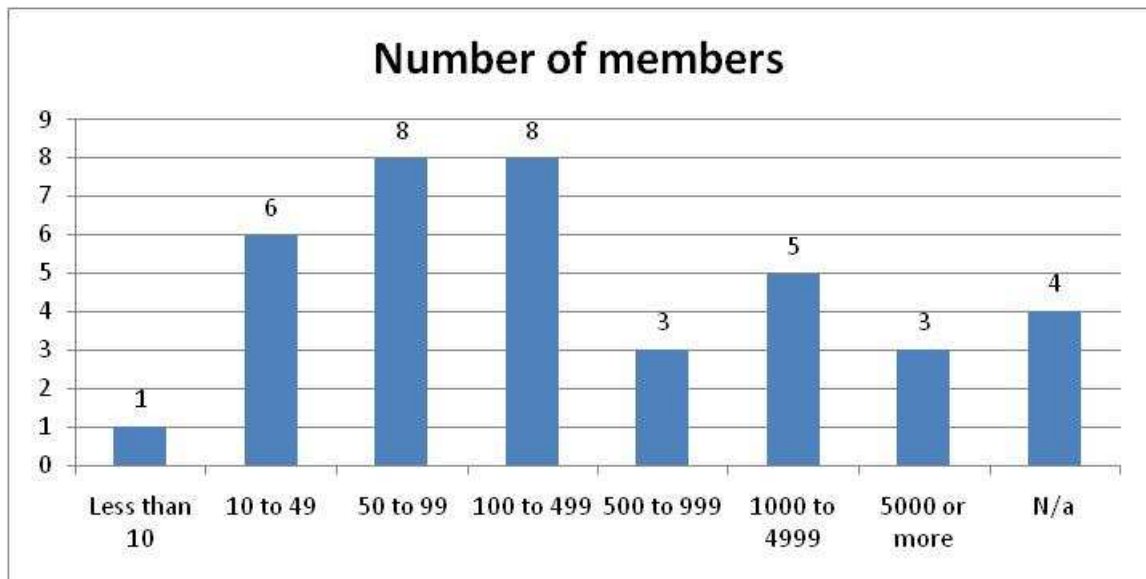


#### 4.4. Association Representativeness

When identifying the nature of their Association’s activity in the survey, a number of delegates utilised the ‘other’ option. As such the following list shows the diversity of sectors operating under the *Associations Incorporation Act (1987)*.



In terms of number of Members and turnover of the Association represented by the delegates, there is a nice spread across all areas. Whilst there is only one organisation with fewer than 10 Members, there are five with a turnover of less than \$10,000pa.



## 5. Forum Comments - Consultation Questions

A number of specific questions were embedded in the draft Model Rules that asked the reader to consider a range of issues. Delegates identified five priority areas to discuss.

### ***5.1. Age – Should there be a restriction for membership to the Association and/or the committee?***

The discussion threads for this topic were:

- Decision on whether to include an age restriction should be left up to the Associations.
- From a legal point of view a person of any age can be part of the decision making of the Association. If a contract is entered into by the Association following a decision by the committee, the contract will legally bind the Association as the Association is a legal entity in its own right.
- Some Associations attract people from all ages – they want to encourage young people to get involved and to be part of growing the Association.
- Age membership may be governed by insurance. Some policies may not cover Members of certain ages (too young or too old).
- There were concerns about level of responsibility given to minors.
- There were concerns about safety for minors in these roles.
- The Model Rules need to be suitable for the diversity of the group, which will include organisations with young Members (sporting clubs, youth groups etc).
- There would be value in providing information and or guidelines, that are not part of the Model Rules to assist Associations to consider the implication and strategies for working with Members under the age of 18 (especially on committees).

**General agreement:** At the end of the discussion seven delegates felt there should still be age restrictions on committee membership.

**Recommendation 1:** No age restriction to be placed on Association or committee membership in the Model Rules. This choice should be left to individual Associations.

**Recommendation 2:** The Department to consider developing some guidelines (separate to the Model Rules) for Associations that have Committee Members who are younger than 18 years of age.

### ***5.2. Do you think Members should elect people to a specific position on the committee?***

**General agreement:** There was limited discussion on this question as general agreement was reached quickly with only four delegates disagreeing with the following recommendation.

**Recommendation 3:** The committee selection process outlined in the Model Rules be indicated as options. The Association should be left to decide how to elect/appoint office bearers and/or Committee Members.



### 5.3. *Presentation of annual ‘forward’ budget to AGM for endorsement*

The discussion threads for this topic were:

- This is an important communication tool to Members—but a budget is only a best guess and an estimate.
- Should this be a requirement that is only applied to Tier 2 organisations?
- There could be inadvertent disclosure of commercially sensitive information about an Association’s related activities.
- Forward budgets are an operational tool and should not be part of the AGM.
- The accuracy of budgets would vary due to the time lag in their preparation.
- There is already a lot of information once an organisation has been audited, so it should be easy to do.
- This would be too large an impost on many small organisations. It should not be applicable for Tier 1.

**General Agreement:** There was general agreement to the following recommendation. Two delegates voted that this requirement should be specified for Tier 1 Associations and six delegates voted for it to be specified for Tier 2 Associations.

**Recommendation 4:** The Model Rules do not specify the need for an annual ‘forward’ budget to be presented at an AGM for endorsement by Members. This can be an individual choice of each Association.

### 5.4. *Dispute resolution clauses*

There was significant deliberation in this area, discussion threads were as follows:

- Need to clarify what to do when there is a conflict of interest for individuals or Committee Members involved in the dispute.
- Bring in a requirement for earlier mediation. See options in the draft Model Rules.
- How do people know where to go for external mediation or arbitration?
- 28 days is a long time to breed discontent. However may be required for regional Associations.
- Possibility to show other options especially for regional communities. eg: the ability for any Member to seek external arbitration.

**Recommendation 5:** The Model Rules leave the dispute resolution options as currently written.

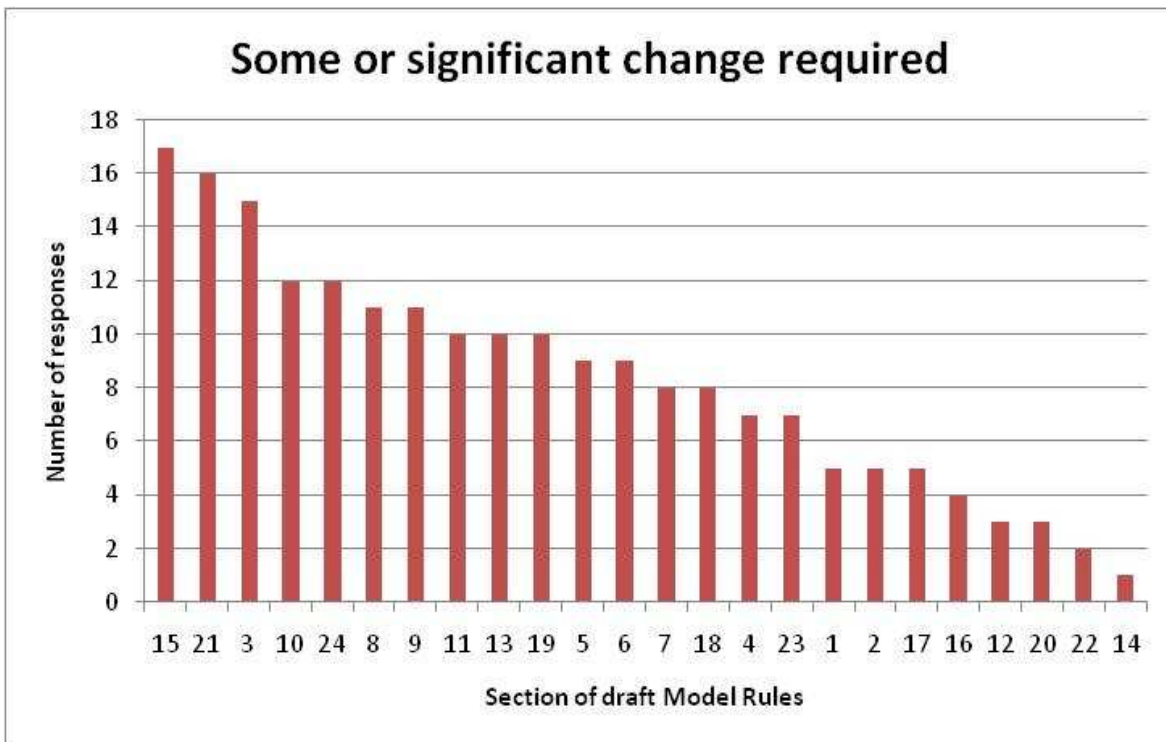
No other comments were made by Delegates in relation to the other consultation questions. This was a factor of time and the prioritisation used on the day. As such a lack of comment by delegates on other elements of the Model Rules or survey comments, does not imply an endorsement or dispute with the survey findings. The remaining survey findings can be found in on page 66 of this document.



## 6. Forum Comment -Section by Section

The graph below shows the number of survey respondents who considered a specific section of the draft Model Rules requires either some or significant change. The top seven sections that respondents suggested required some or significant change were:

1. Section 15 'PUBLIC OFFICER' ( n17)<sup>6</sup>
2. Section 21 'FUNDS AND ACCOUNTS' (n16)
3. Section 3 'BECOMING A MEMBER' (n15)
4. Section 24 ' WINDING UP AND DISTRIBUTION OF SURPLUS PROPERTY' (n12)
5. Section 10 'ROLE AND RESPONSIBILITIES OF COMMITTEE MEMBERS' (n12)
6. Section 8 'RESOLVING DISPUTES'<sup>7</sup> (n11)
7. Section 9 'POWERS AND COMPOSITION OF THE COMMITTEE' (n11)



Based on the feedback provide by DOCEP (shown on page 16), delegates discussed and made recommendations on the following priority areas.

<sup>6</sup> The requirement for a Public Officer is planned to be removed from the Green Bill. As such, it did not form part of the discussion at this forum.

<sup>7</sup> The forum had already reached a recommendation in relation to Dispute Resolution. As such, it was not revisited in this part of the forum.



## 6.1. Section 21 'Funds and accounts'

There was concern over the requirement for “receipting” all monies as commercial law only requires a tax invoice. This concern also applied to the difficulty in receipting for fund raising purposes.

The other concern related to the impost on small organisations to deposit all monies received and then pay all expenses separately. In many instances Associations run events that allow people to pay expenses from the takings and then deposit the remaining monies at the end of the event.

Discussion centred on the distinction between physically depositing the money and the need to properly account for the incoming and outgoing funds.

The final discussion in this section focused in the practice of dual signatories. There was strong support for this existing practice.

**General Agreement:** The following were unanimously agreed

**Recommendation 6:** Section 21.2b.(i) be changed to capture the intent of the following. *“All monies be recorded/accounted for as taken and expended. The final amount is to be deposited as soon as practicable”.*

**Recommendation 7:** Section 21.2b.(ii) be changed to capture the intent of the following. *“Associations need to ensure that all monies received are recorded/ accounted for appropriately”*

**Recommendation 8:** The clauses dealing with dual signatories be retained.

## 6.2. Section 3 'Becoming a Member'

The discussion threads for this topic were:

- Concern that the requirement for written application not appropriate for the breadth of organisations (toy libraries, Indigenous groups with native title etc).
- Can authority to accept membership get delegated to make this simpler?
- There needs to be some informal options for membership.
- There needs to be a clear appeals process for refusal of membership.
- Should reference be made to other legislation, equal opportunity, anti-discrimination etc? (The concern is that this would make the Model Rules too large).
- Need to articulate what are the entitlements of membership for each category.

**General Agreement:** The following was unanimously agreed

**Recommendation 9:** Make the requirement for written membership application optional and provide options for both formal and informal processes.



### **6.3. Section 24 'Winding up and distribution of surplus property'**

The discussion threads for this topic were:

- Charities also need to comply with tax obligations in relation to winding up. This needs to be made evident.
- The term 'Body Corporate' is used but there is no definition for this.
- Can there be a provision to sell and then donate cash rather than donate assets? The thinking is that many Associations when they are at the point of wind up do not have the human resources or systems to allow for this.
- It was noted that there will be new amalgamation provisions in Green Bill.
- In terms of document storage, if the Association no longer exists, then the requirement for document storage ends with the Association. However, an office bearer or some nominated person may hold documents for a period of time.
- It was noted that the provision in the draft Model Rules reflects the proposed legislative provision.

There was no specific recommendation in relation to this section.

### **6.4. Section 10 'Role and responsibilities of Committee Members'**

The discussion threads for this topic were:

- Clarification 10.2 (c) – being a Member or employee is not a conflict by default – the issue determines the conflict.
- An optional clause should be added to assist Associations to consider if it is appropriate for employees to be Committee Members due to the conflict of interest that may arise.
- There were concerns about the ability for small regional Associations to work with the conflict of interest clause given the high likelihood that people are on multiple committees and have multiple roles within the community.
- Potentially too prescriptive and may not be tenable for small regional organisations.
- Look at local government model.
- It was noted that the conflict of interest provisions contained in the draft Model Rules reflect the provisions in the Green Bill.

**General Agreement:** The following were unanimously agreed

**Recommendation 10:** An optional clause should be added to assist Associations to consider if it is appropriate for employees to be Committee Members due to the conflict of interest that may arise.

**Recommendation 11:** Review the conflict of interest section, to make a distinction between impartiality and conflict of interest. Consider the local government definitions and process.



## 6.5. Section 9 'Powers and composition of the committee'

The discussion threads for this topic were:

- 9.2 (d) – clarify the optional nature of this clause.
- Formatting of 9: This section may just need re formatting or further clarity on which is required and which is optional.
- Specify maximum and minimum size of each committee as an option (i.e. no fewer than X Members and no more than Y Members).
- Make the number of Committee Members beyond office bearers optional.
- Clarify which office bearers are mandatory.
- 9.2. (a)(ii) Change to not more than, presently reads not less than three. Make this an optional clause.
- It was noted that these provisions of the draft Model Rules will need to be reviewed in light of the amendments proposed to be made to the Green Bill.

**General Agreement:** The following was unanimously agreed

**Recommendation 12: Review the layout of section 9 'Powers and composition of the committee' to more clearly specify the mandatory and optional elements.**

## 6.6. Section 11 'Appointment to committee'

- Potential confusion between the terminology 'appointed' and 'elected' Explanation was given by Gary and supported by Liz. One delegate begged to differ; there was no time to further this discussion.
- It was noted that these provisions of the draft Model Rules will need to be reviewed in light of the amendments proposed to be made to the Green Bill.

**General Agreement:** The following was unanimously agreed

**Recommendation 13: Review the layout of section 11 'Appointment to committee' to more clearly specify the mandatory and optional elements.**



## 6.7. Section 13 'Committee meetings'

There was significant discussion in relation to the access of Members to committee meetings. The discussion threads for this topic were:

- The importance of accessibility of the committee meetings to Members.
- There was some concern about managing sensitive/confidential information.
- Making a provision for meetings to be held in camera.
- Leave 13.8 in as an option.
- Leave Chair as casting vote.
- Concerns about 'branch stacking' if proxy voting options are not specified further.
- Agreement to keep the proxy vote. With the following amendments:
  - Unlimited directed proxies (i.e. proxies which specify how to vote on an issue).
  - Limit of five discretionary proxies (i.e. proxies that give the proxy holder an additional vote).
- Important to clarify that the 3/4 majority for Special General Meetings refers to the number of people eligible to vote at the meeting as opposed to the total number of Members.

**General Agreement:** The first recommendation was unanimously agreed. Four delegates disagreed with the inclusion of a provision for postal voting.

**Recommendation 14:** In relation to clause 13.5(e). The default position should be to allow all Members to attend committee meetings. Associations are free to amend this at their discretion or to specify that certain sections of the meeting may be held in camera.

**Recommendation 15:** That a provision for postal voting should be added as an optional rule.

**Recommendation 16:** Provisions for proxy votes to be retained. The Department to consider the following limitations to proxy voting: Unlimited directed proxies and a limit of five discretionary proxies.

## 6.8. Section 16 'AGM'

- The topic of AGM's was discussed, focused mainly on the length of notice required.
- There was no recommendation.

## 6.9. Other Comments

**General Agreement:** The following was unanimously agreed

**Recommendation 17:** Codes of conduct and governance guidelines are an important aspect of effective running of Associations and DOCEP to consider the development of a governance charter.



## 7. Consultation Survey

The survey received 126 responses and approximately half (n61) completed both the qualitative questions in the first section of the survey and the more detailed section in the rear of the document.

The survey was constructed in three parts

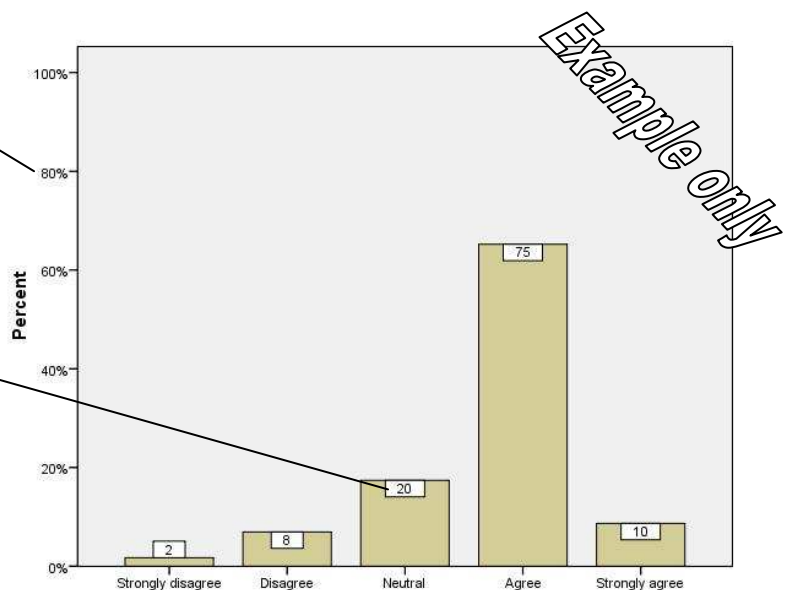
1. Questions relating to the suitability and implementation of the Model Rules. Results can be found on page 30 of this report.
2. Questions relating to the consultation notes embedded in the draft Model Rules. Results can be found on page 37 of this report.
3. An opportunity to make specific comments about each section of the draft Model Rules. Results can be found on page 61 of this report.

Data was screened for non-response and a number of cases were deleted from the final data set for analysis. Descriptive and inferential statistics including means, correlations, t-tests, and ANOVAs were used as appropriate in the analysis of the data set. Only statistically-significant group differences are reported.

### Reading the graphs

The percentage of total response is provided in the vertical axis

The number of responses that make up this percentage is shown on the respective column.



### 7.1. Summary of responses to consultation notes

A number of specific questions were embedded in the draft Model Rules that asked the reader to consider a range of issues. While the full results of these questions can be found further in this document, the results are summarised in the following table:

	Yes	No	Unsure
Should the Model Rules place age restrictions on who should be eligible for membership of an Association (e.g. over 18 years of age)?	53.1%	28.1%	18.8%
Would it be helpful if the Model Rules offered standard definitions of specific membership types (e.g. those common to many Incorporated Associations)?	66.7%	26.3%	7.1%
Having considered the 'Resolving Disputes' section, do you think that these arrangements will suit your Association?	66.0%	19.1%	14.9%
Having considered the 'Resolving Disputes' section, do you think a dispute between a Member and one or more other members can be addressed fairly by the committee?	72.2%	11.3%	16.5%
Should the Model Rules place an age restriction on who should be eligible to be a Committee Member (e.g. Over 18 years of age)?	58.9%	31.6%	9.5%
Would it be useful to include a clause in the Model Rules that Committee Members "owe a duty of care, diligence and good faith to the Association and its members"?	69.8%	18.8%	11.5%
Do you think Members should elect people to a specific position on the committee?	61.1%	29.5%	9.5%
Should the Association's Members select the committee and then leave the committee to select the officer bearers (e.g. Chairperson, Treasurer etc)?	25.3%	65.3%	9.5%
Should the Model Rules require the Treasurer to present an estimated annual budget for the year ahead at the Annual General Meeting for endorsement by members (i.e. in addition to a report on the previous financial year)?	26.6%	55.9%	7.5%
Are the tables in the rear of the document a useful addition to the draft Model Rules?	83.5%	5.5%	11%

Two consultation questions were not asked in a 'Yes/No' format. These can be found in "Forms, Schedules and Reporting" on page 47 of this report.

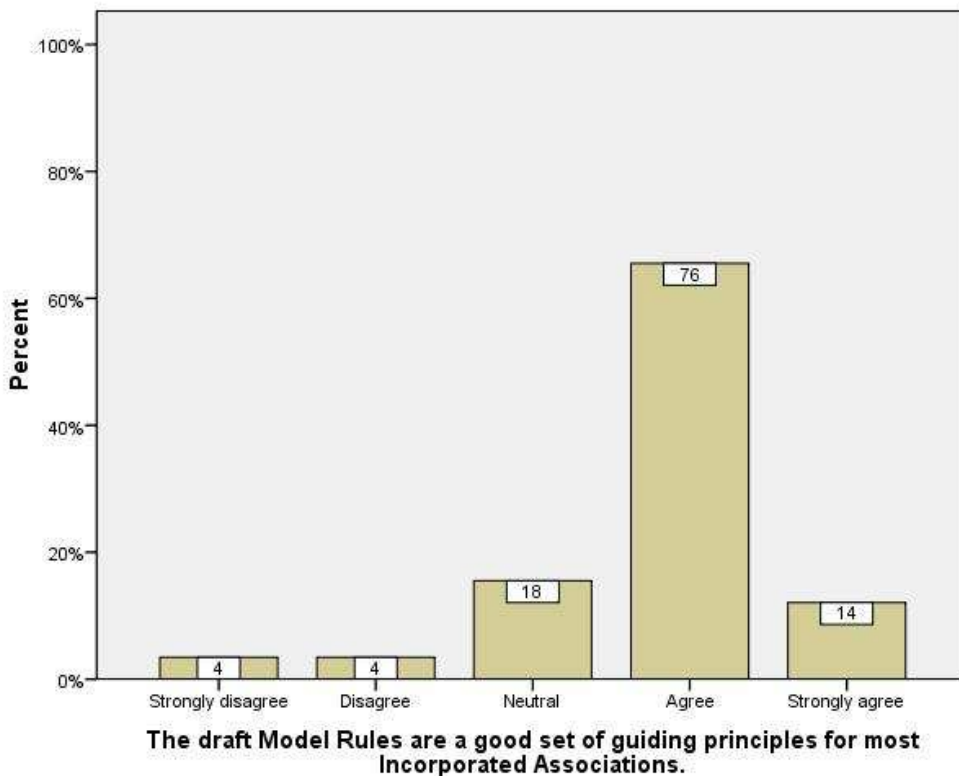
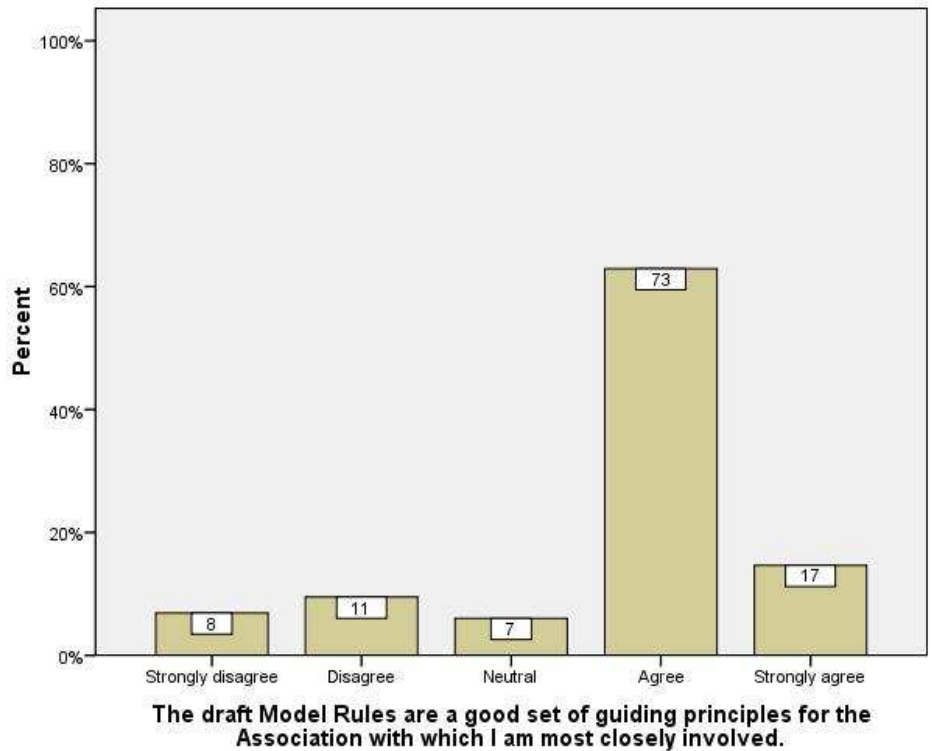
The detailed response to these questions can be found on page 37.



## 8. Survey results – suitability measures

As can be seen by this graph there is a high level of support for the draft Model Rules as a set of guiding principles for the respondents Associations with 77.6% (n90) either agreeing (62.9%, n73) or strongly agreeing (14.7%, n17) with this statement.

Although 16.4% (n19) either disagreed (9.5%, n11) or strongly disagreed (6.9%, n8) those that strongly disagreed came from Associations with less than \$50,000pa turnover or fewer than 50 Members.



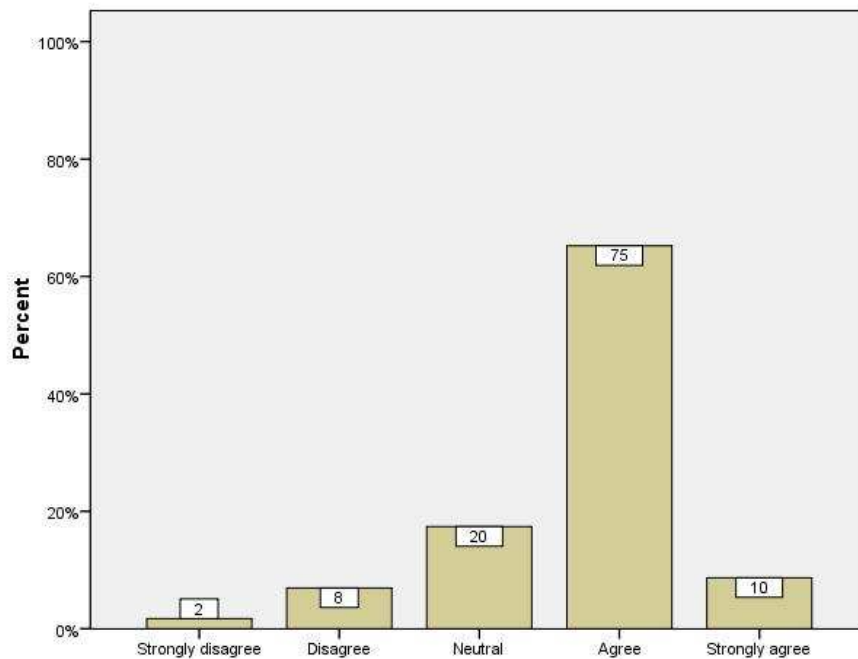
Further to the above support for the draft Model Rules, 77.6% (n90) either agreed (65.5%) (n76) or strongly agreed (12.1%) (n14) that the draft Model Rules would also be a good set of guiding principles for most Associations.

When compared to the above question, the higher neutral score in this question, 15.5% (n18) decreases the level of disagreement with this statement.

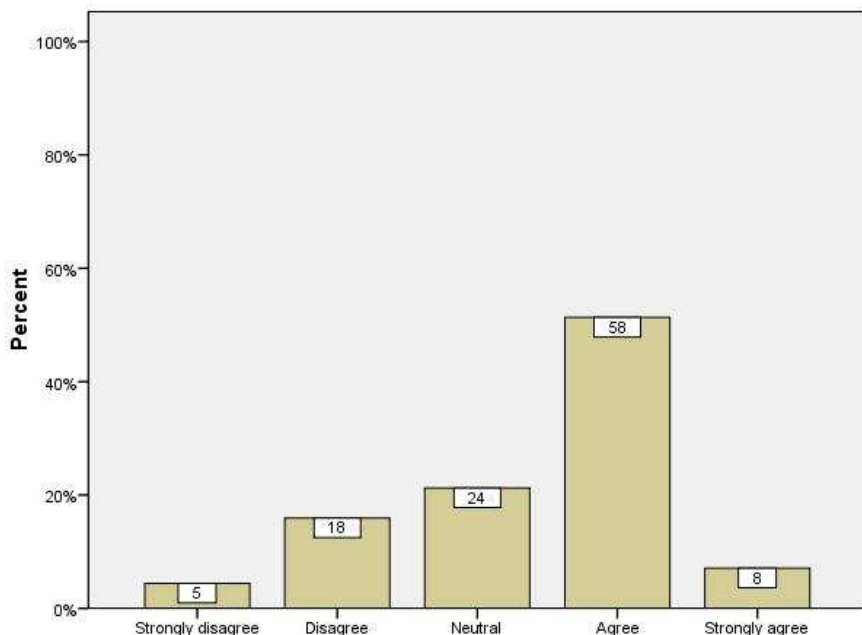


In terms of the ease of understanding 73.9% (n85) either agreed (65.2%) (n75) or strongly agreed (8.7%) (n10) that these draft Model Rules were easy to understand.

17.4% (n20) of respondents were neutral on this issue and 8.7% (n10) either disagreed (7.0%) (n8) or strongly disagreed (1.7%) (n2).



The draft Model Rules are easy to understand.



The draft Model Rules provide sufficient flexibility to define how we wish to operate as an Association.

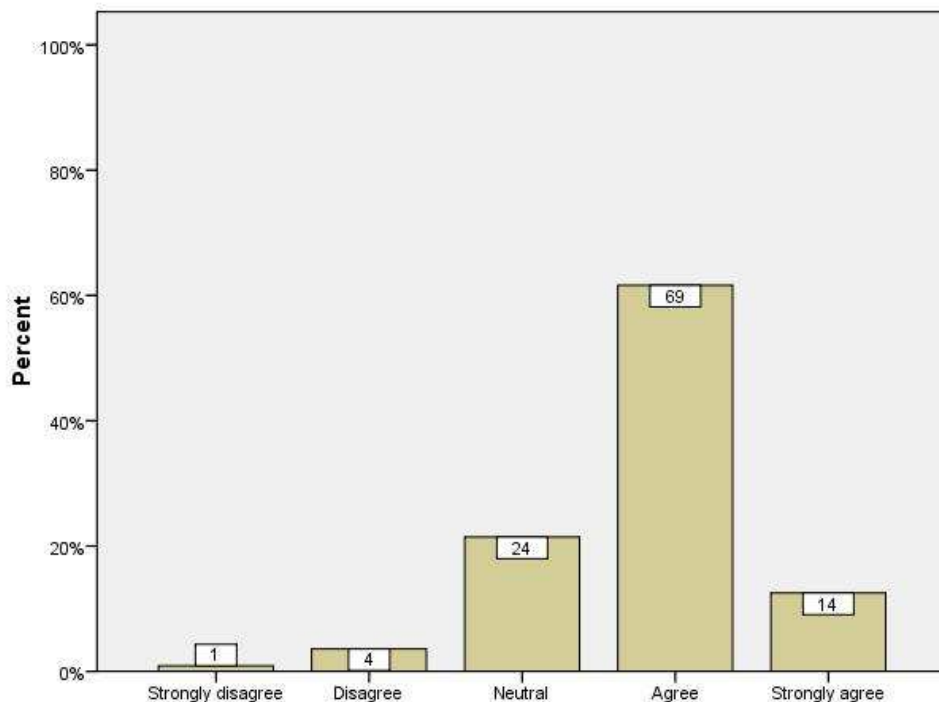
Compared to the ease of understanding and being a good set of guiding principles there was less support for the draft Model Rules providing sufficient flexibility for Associations to define how they wished to operate.

58.4% (n66) agreed (51.3%) (n58) or strongly agreed (7.1%) (n8) that it did provide sufficient flexibility, 21.2% (n24) were neutral on this matter and 20.4% (n23) either disagreed (15.9%) (n18) or strongly disagreed (4.4%) (n5).



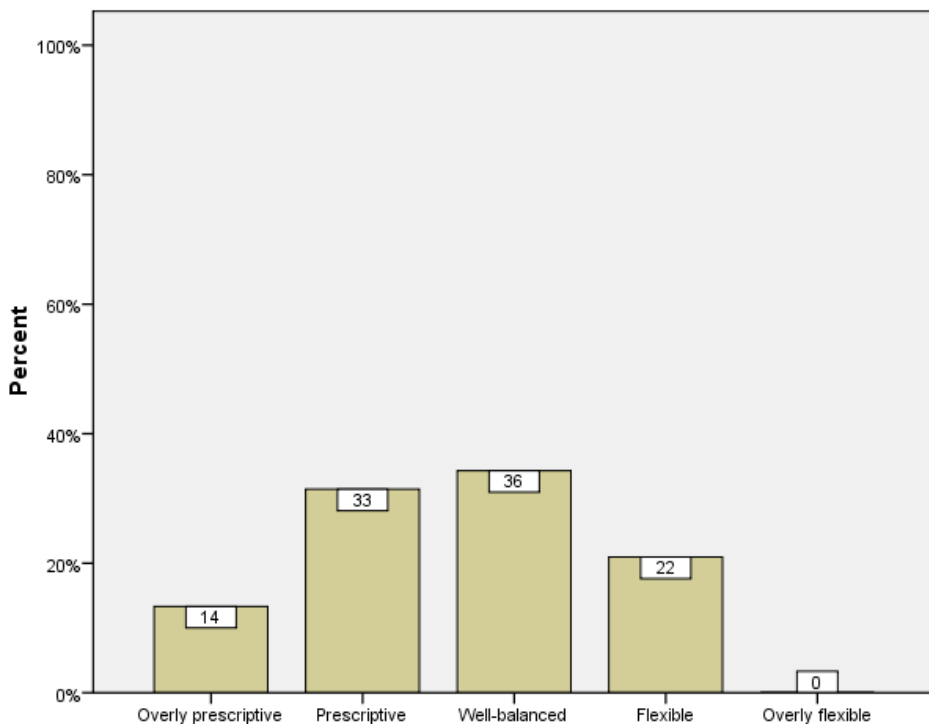
Once again there was clear support that these Model Rules provided sufficient clarity for how Associations could meet their legal requirements.

74.1% (n83) either agreed (61.6%) (n69) or strongly agreed (12.5%) (n14) with this statement. Only 4.5% (n5) either disagreed (3.6%) (n4) or strongly disagreed (0.9%) (n1).



**The draft Model Rules will provide sufficient clarity as to how we can meet our legal requirements of incorporation.**

There was a slight variation between sectors in this response. Those identifying themselves as part of a trade or technical organisation (two people) agreed more strongly than those from a health-related or agricultural Association.



**How would you characterise the draft Model Rules?**

34.3% (n36) of the respondents viewed these draft Model Rules as well balanced. An almost equal 31.4% (n33) viewed them as prescriptive.

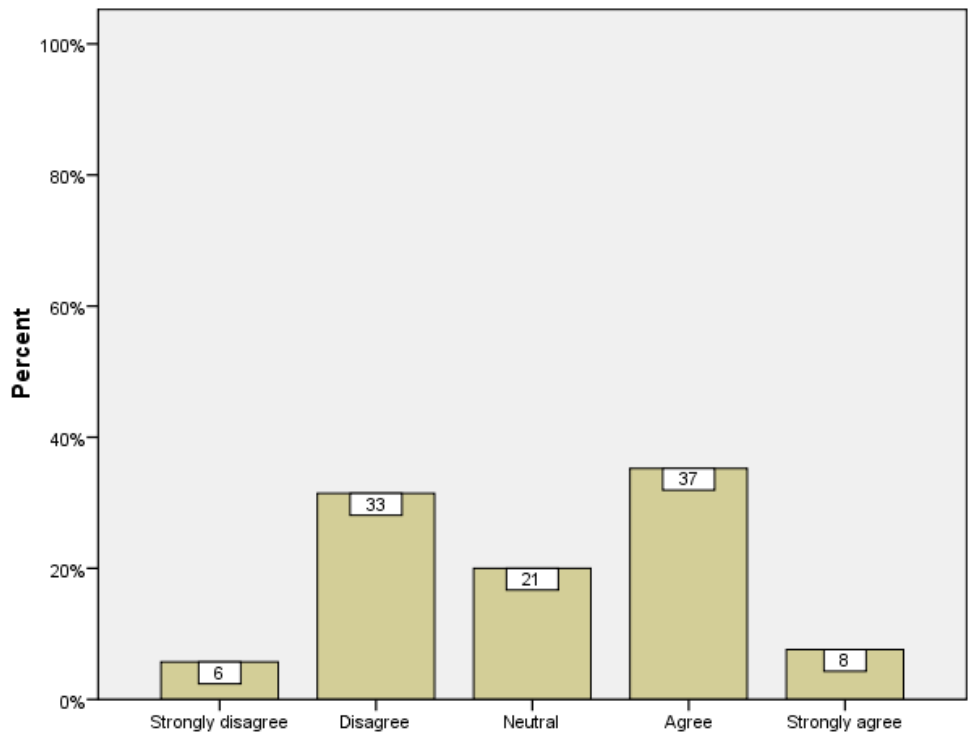
21.0% (n22) identified them as flexible, while 13.3% (n14) thought they were overly prescriptive.



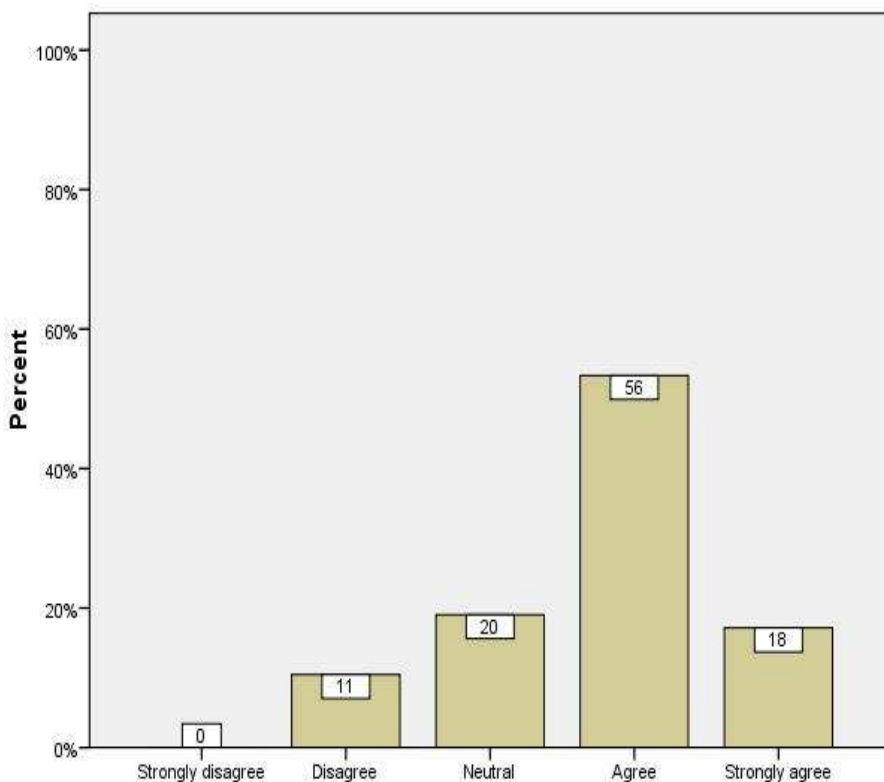
An almost equal number of people felt that the alignment would only require minimal changes as those that felt it would require more than just minimal changes.

42.9% (n45) either agreed (35.2%) (n37) or strongly agreed (7.6%) (n8) with the view that it would require minimal changes.

37.1% (n39) either disagreed (31.4%) (n33) or strongly disagreed (5.7%) (n6).



**Aligning to these draft Model Rules will require minimal changes.**



**The Association will be able to review and update topics within an 18 month period.**

Whilst there was a split between respondents views on the level of change required for their Association, 70.5% (n74) felt they would be able to make these changes within an 18 month timeframe.

This is the currently proposed 'phase in' period for the Model Rules once the bill is enacted.

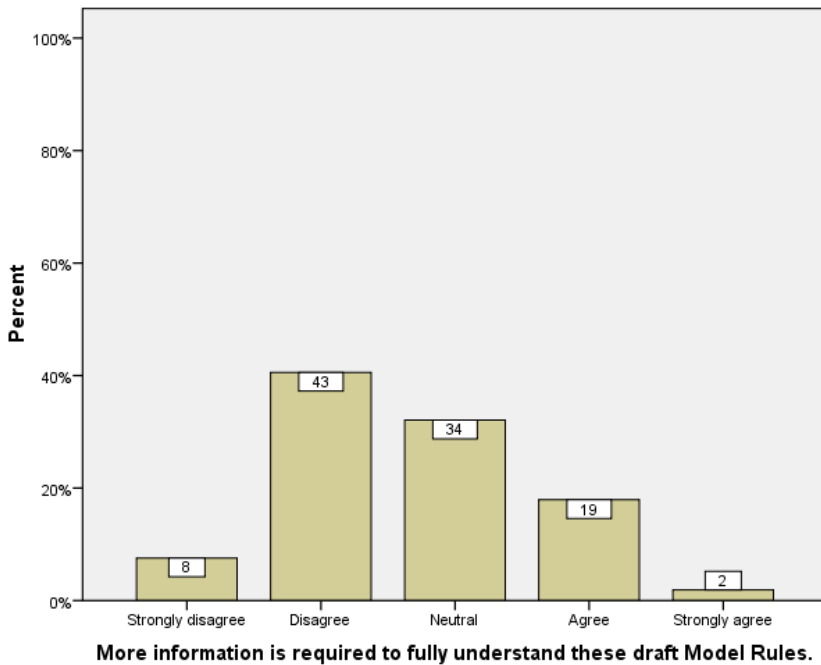
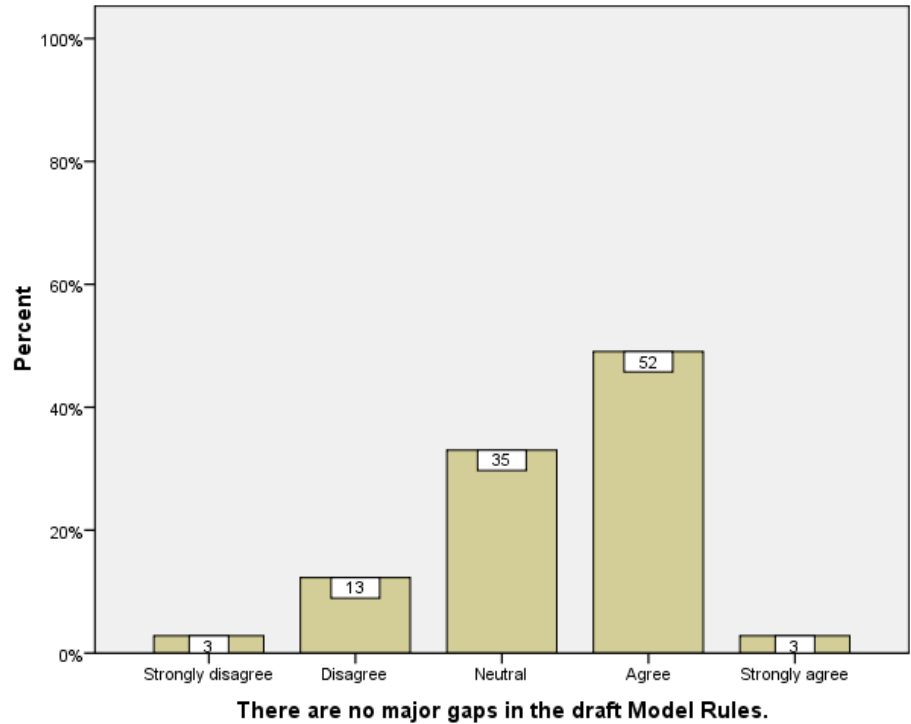
10.5% (n11) disagreed with this view and tended to represent Associations with fewer than 500 Members. Those associated with a trade or technical Association agreed more strongly than did those from a health-related Association.



In terms of coverage 51.9% (n55) either agreed (49.1%) (n52) or strongly agreed (2.8%) (n3) that there are no major gaps in the draft Model Rules.

15.1% (n16) either disagreed (12.3%) (n13) or strongly disagreed (2.8%) (n3) with 33% (n35) neutral on the matter.

See also the section by section feedback on page 61 of this document for a more detailed breakdown of the level of changes suggested for each section of the draft Model Rules.



In this question people were asked if they needed more information, (other than their constitution and the Act), to understand these Model Rules.

This question is reverse, so that disagreement to the question is a positive response.

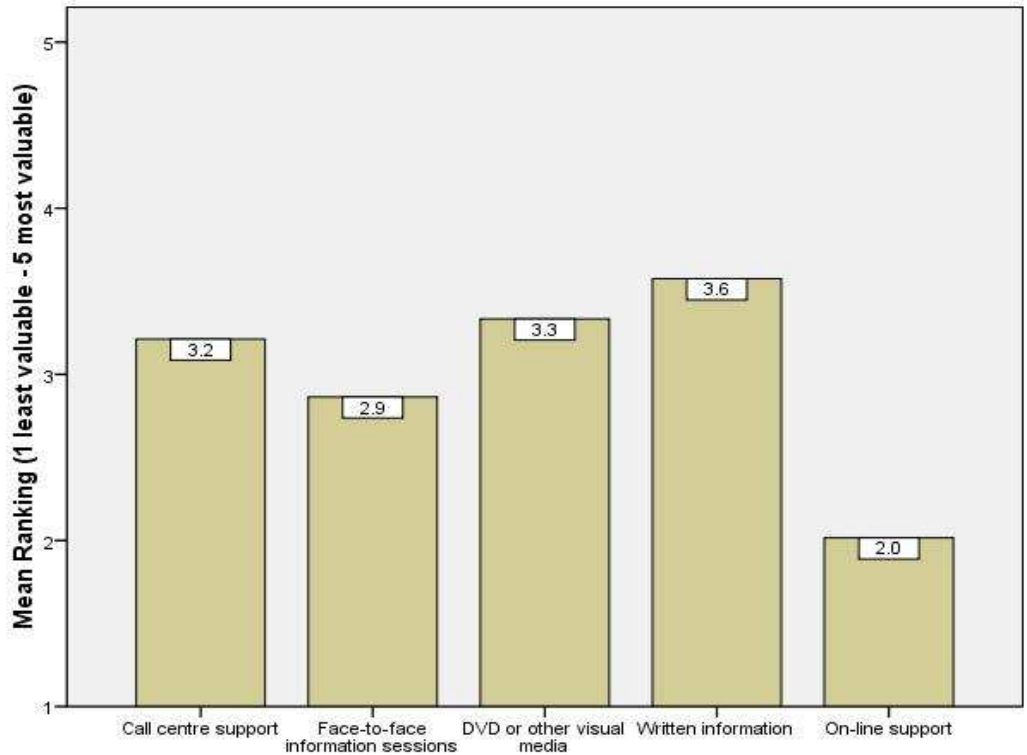
As such, 48.1% (n51) felt their constitution and Act would provide sufficient information for them to understand the Model Rules. 19.8% (n21) felt this would not be sufficient.



### Support materials

This question asked respondents to rank the types of support materials they would find useful in implementing the potential changes to their constitution.

As this question was ranked, total percentages are not given (due to respondents selecting more than one item).

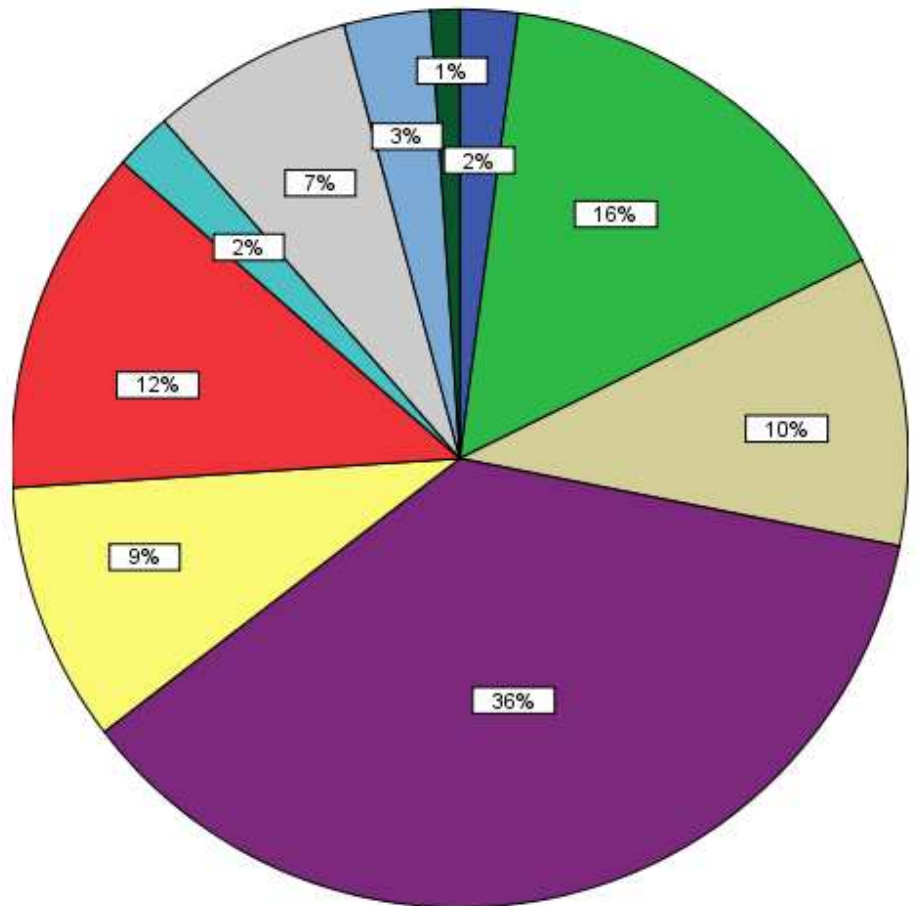


As can be seen by the graph, there is a clear clustering of support with the top three formats for support being:

1. Written information.
2. DVD and other virtual media.
3. Call centre support.

What should be the minimum required number of people to constitute a Committee?

- 1
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- more than 10 people

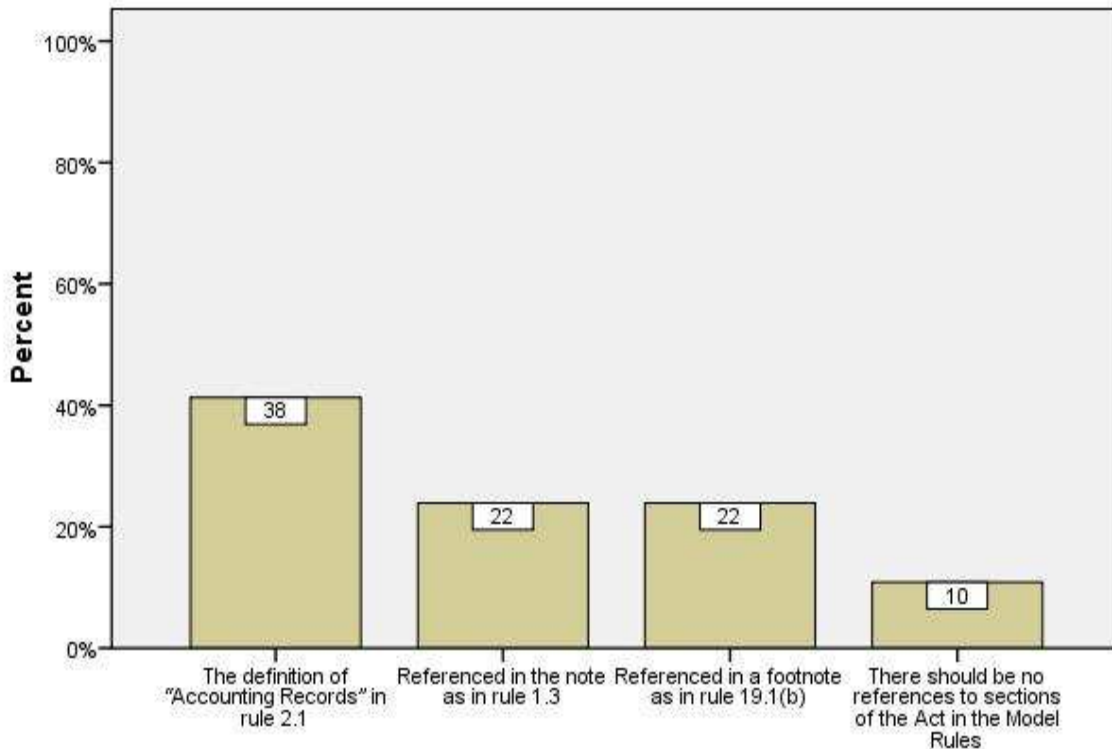


In this question, 36% (n35) respondents felt that the minimum number of people required to start a committee should be five. Next highest was three people 16% (n15), followed by seven people - 12% (n12).

## 9. Survey Results - Consultation questions/notes

In the draft Model Rules a series of consultation questions/notes were asked and comments called for. The following section provides the result of these questions and a summary of comments.

### 9.1. Type of referencing

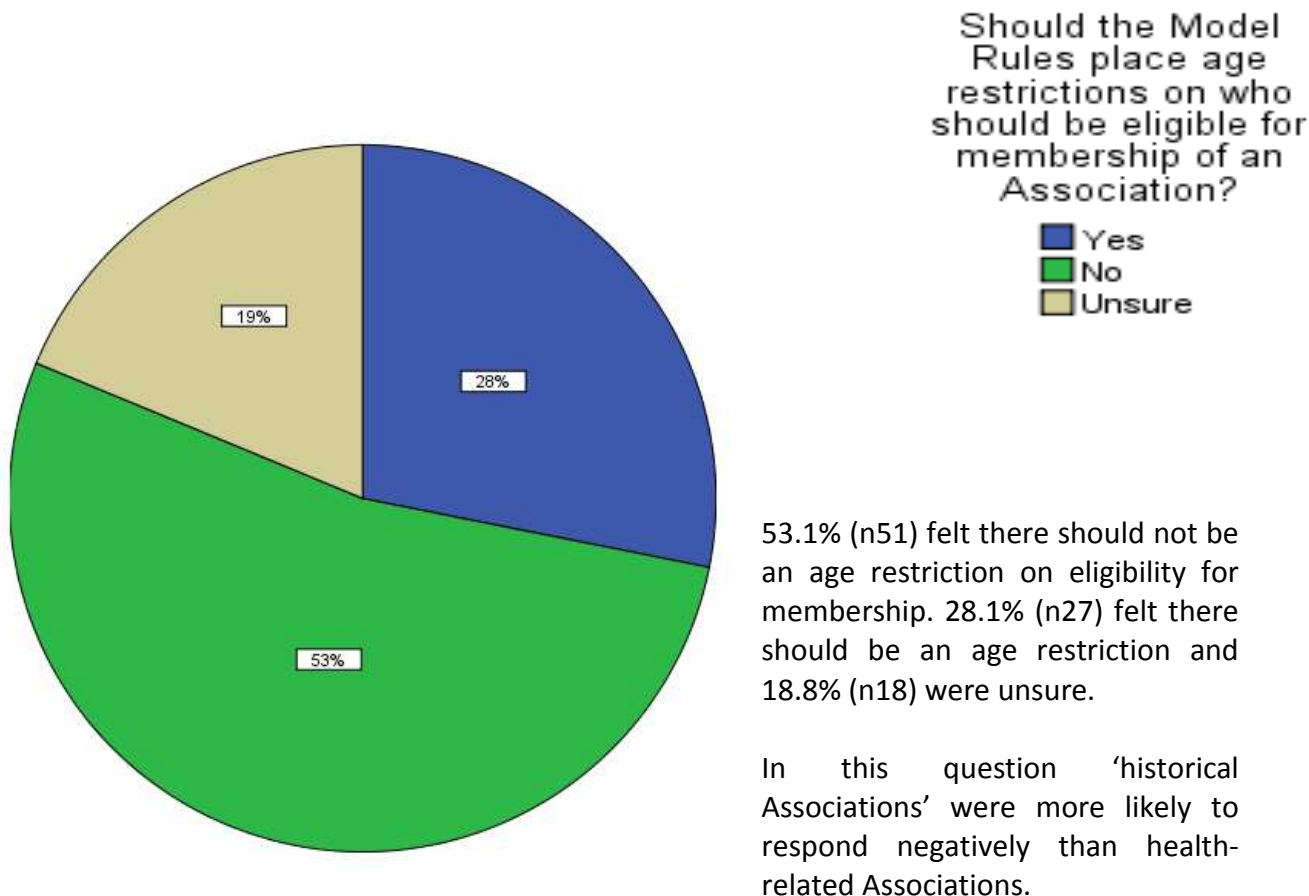


**It is preferable to have references to sections of the Act as shown as:**

This question asked people to consider the various ways the Act can be referenced in the Model Rules.

- 41.3% (n38) of respondents cited a preference for references to the Act to be placed in square brackets i.e. [ ] placed in the body of the text.
- 23.9% (n22) preferred placing in notes preceding the respective clause in parenthesis, close to the respective section.
- 23.9% (n22) preferred the use of footnotes, close to the respective section.
- Only 10.9% (n10) felt there should be no references to the Act in the Model Rules.

## 9.2. Age restriction for membership

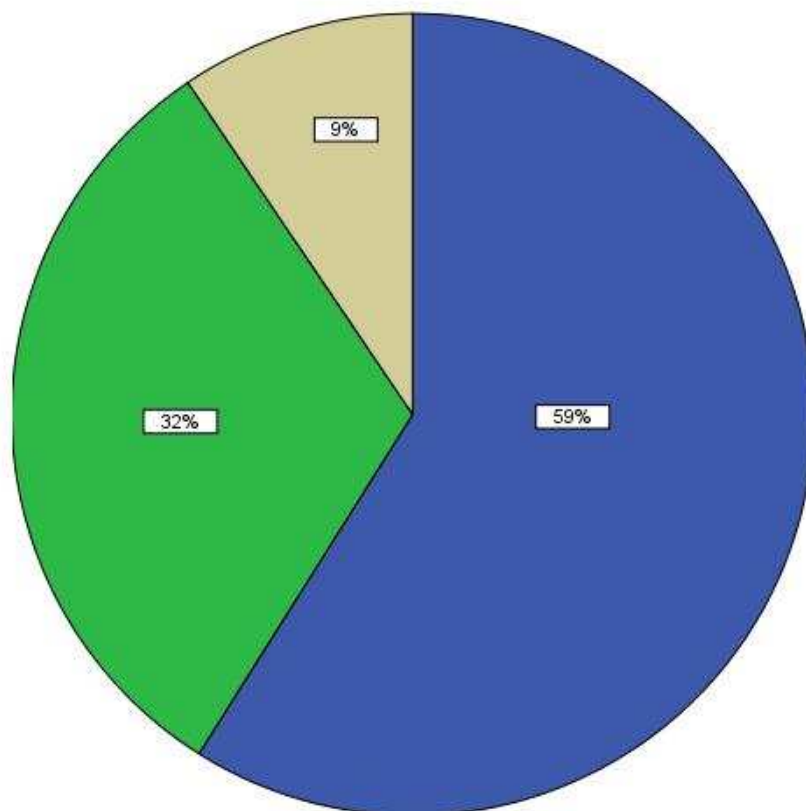


The comments regarding whether the Model Rules should include age restrictions on membership were overwhelmingly 'no'. The feeling was that most Associations welcomed younger Members and valued their contributions and that a provision regarding age could be detrimental to this. A large proportion of comments said it would depend on the nature of the Association e.g. sporting clubs or childcare centres with teenage mothers. An equally large proportion were in favour of no age restrictions on membership but perhaps on voting rights or ability to hold certain positions. Many favoured leaving this up to the Association to decide.

Some suggested 'junior membership' as one of the classes of membership with certain restrictions on that class. Some other comments queried any legal ramifications with having junior Members and a few others said if there were restrictions on age, 18 might be too high.

Should the Model Rules place an age restriction on who should be eligible to be a Committee Member (eg: Over 18 years of age)?

- Yes
- No
- Unsure



As can be seen by the chart, there was a strong response to this question, with 59% (n56) of respondents agreeing with a need to place an age restriction on committee membership. Whilst only 32% (n30) of respondents disagreed, there were no respondents in the survey sample that were below the age of 25 (see page 19).

The dominant comment to this question was that Committee Members should be of legal age (18 years or over). The most prominent reasons given were the legal ramifications e.g. liability for breaches, cheque signing etc.

There was however a large group of respondents who said it depends on the nature of the Association. The example of a youth organisation was cited often e.g. youth leading other youths with adult mentors.

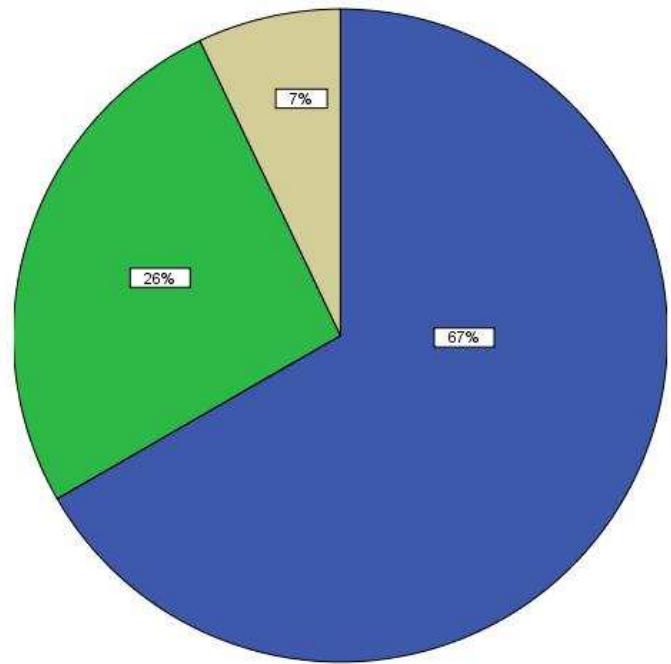
Some respondents welcomed people under the age of 18 on the committee but not as office bearers due to the perceived difficulty with the legalities of contracting etc (as stated above). There was a sentiment that youth input was welcomed and valued in Associations but that it could be obtained in ways outside of the committee.

A small number of comments said it should be at the discretion of the Association to decide and an equally small number said that there should be no age restrictions.

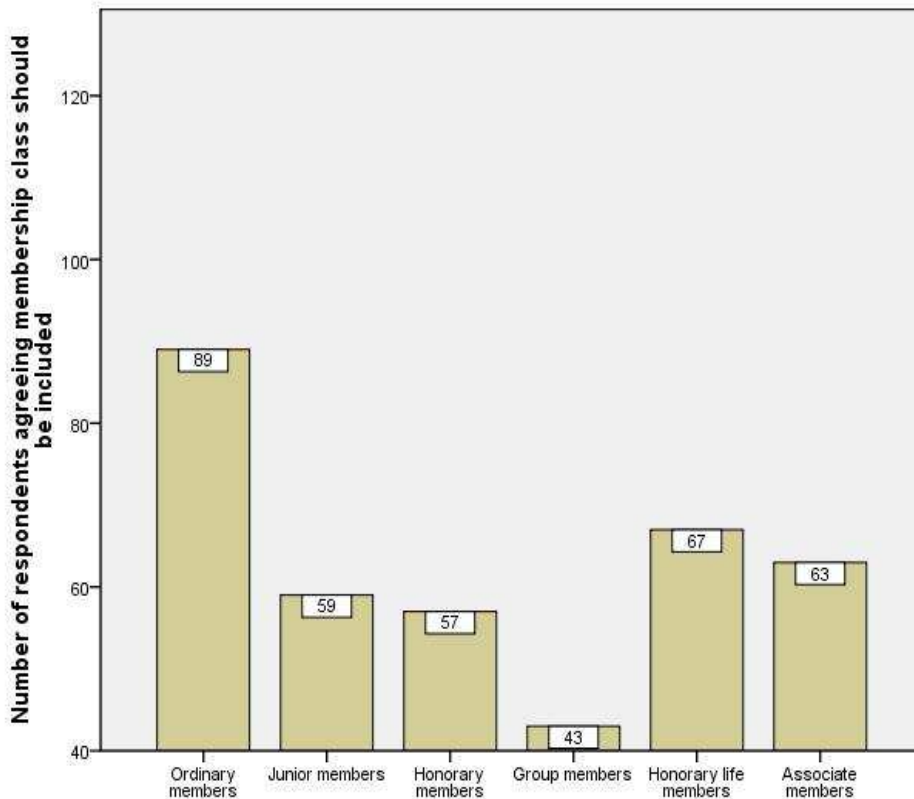
### 9.3. Types of Membership

Would it be helpful if the Model Rules offered standard definitions of specific membership types?

■ Yes  
■ No  
■ Unsure



On the question of the provision of standard definitions for membership types, 67% (n67) said it would be useful and 26% (26) said not. Of interest is that Associations with activities based solely in regional areas were more in favour of this option than those in the Perth metropolitan area only.



In terms of classes of membership all six categories were supported by close to 50% of respondents.

Of note is that while group membership showed the least support, seven comments identified corporate membership as a gap.

Three comments suggested leaving it to the Associations to decide and one comment suggested that the specification of “natural person”, was too limiting given Members are sometimes another club, Association or body.

There was also a number of single suggestions for other categories such as Trainee, Social Members, pensioners or a provision for paying Members who paid more fees but had more votes.

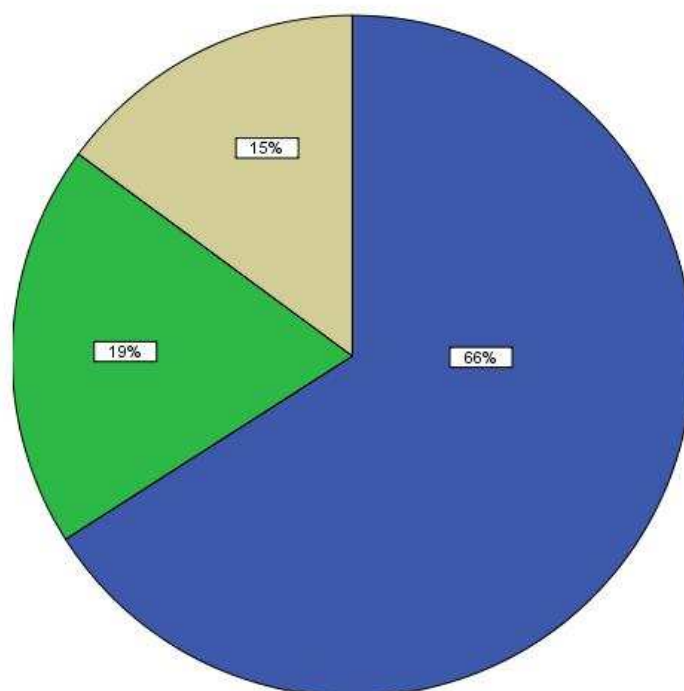
In response to whether the Model Rules should include standard definitions on membership types, the bulk of comments were happy for them to be included on the basis that they serve as a guide only. Most felt it unwise to make the definitions overly prescriptive and at the very least they should be amendable. A substantial number of respondents said that membership types are best left up to the Association to decide as a 'one size fits all' approach to membership may be inappropriate between organisations e.g. a junior Member of a bowling club versus a junior Member of a youth organisation.

A smaller number of respondents simply stated that the proposed membership classes didn't 'fit' their organisation while a small handful welcomed the classes although requested more detail as to the rights and/or limitations of each class.

### 9.4. Resolving disputes

Do you think that the 'Resolving Disputes' arrangements will suit your Association?

- Yes
- No
- Unsure



The draft Model Rules outlines a dispute resolution process. 66% (n66) of respondents felt the provisions outlined would suit their Association, while 19% (n19) did not feel they would be suitable.

Associations that serviced the whole of the state were more positive about this question than were those just serving the Perth metropolitan area.

See also page 65 for more comments in the section by section chapter.

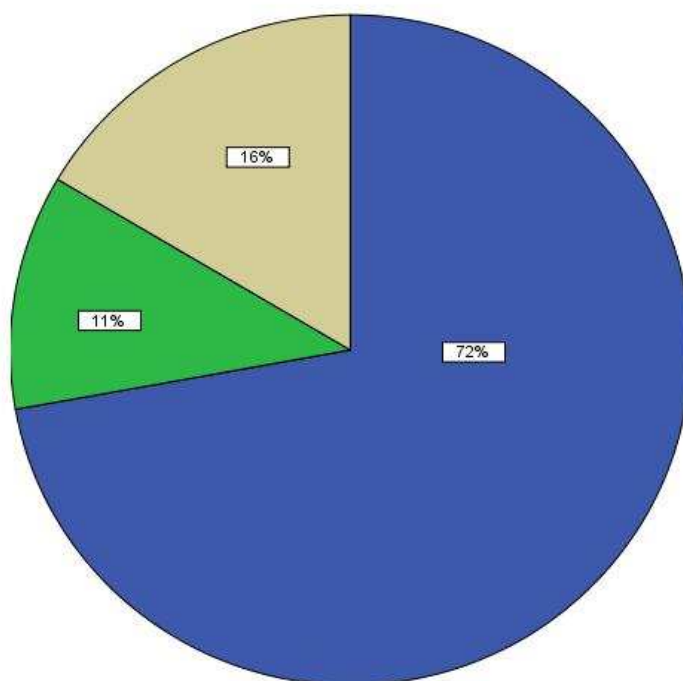
It is interesting to note the variation between the graph and the comments provided in this section. While there was certainly a feeling that Associations should have mechanisms in place for resolving disputes, comments were mixed as to whether the procedures set down in the Model Rules fitted the respondent's Association.

Some respondents said that smaller organisations would be burdened with too much bureaucracy while others said dispute resolution should be left for the committee and/or Association to decide. Among these comments were respondents claiming that their Association's dispute resolution process works fine already.

A few respondents raised concerns regarding conflicts of interest (e.g. when Committee Members are involved in the dispute) and some respondents from religious organisations cited the need to take disputes to the national level. A few others accepted the dispute resolution provisions outright. Some single comments included: the need for verbal warnings; a request for a tribunal; and clarification of the role of mediators.

Do you think a dispute between a Member and one or more other Members can be addressed fairly by the Committee?

- Yes
- No
- Unsure



In this question 72% (n70) of respondents felt that the committee would be able to address disputes between Members fairly. 11% (n10) felt committees would not deal with them fairly. Of note are those Associations with an annual turnover of between one and ten million dollars being less positive about the potential for committees to resolve matters fairly, than organisations reporting less revenue.

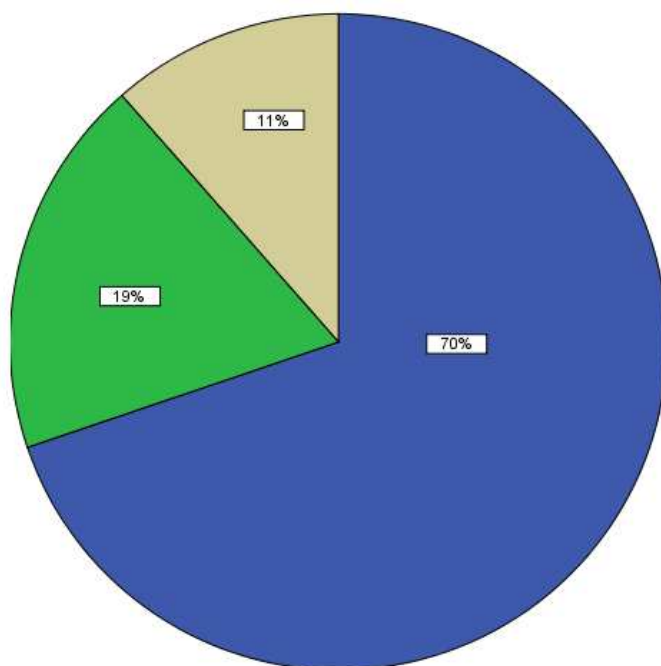
The dominant response in the comments area of this section was that it depends on the individual Committee Members at the time. Many felt that if Committee Members are to resolve disputes equitably, they would need adequate skills, knowledge and competencies to do so. In consistency with this, another wide response was the imperative to outline a mediation process.

There was a moderate group of respondents that said it depended on the size and nature of the organisation e.g. in Associations with limited membership the committee may find it hard to remain impartial.

### 9.5. Inclusion of “duty of care and good faith” clause

Would it be useful to include a clause in the Model Rules that Committee Members owe a duty of care, diligence and good faith to the Association and its Members?

- Yes
- No
- Unsure



As can be seen, there was strong support in both the question and comments section. 70% (n67) of respondents support the inclusion of a clause of this nature, while 19% (n18) were not in favour of the inclusion of such a clause.

Associations that serviced the whole state were more positive about this question than those just serving Perth metropolitan area.

The majority of comments reflected a desire to have a continual focus on the need for quality governance and the inherent responsibility. Four comments felt a clause of this nature would be stating the obvious and was already implied through existing clauses, procedures and the Act.

Some respondents called for more detail regarding this clause as well as more provisions pertaining to corporate governance in general. Some respondents suggested alternative wording of the clause e.g. “to act in the best interest of the organisation”. One respondent said that care, diligence and good faith are difficult to measure and judge and that the Act already has sufficient clauses dealing with governance.

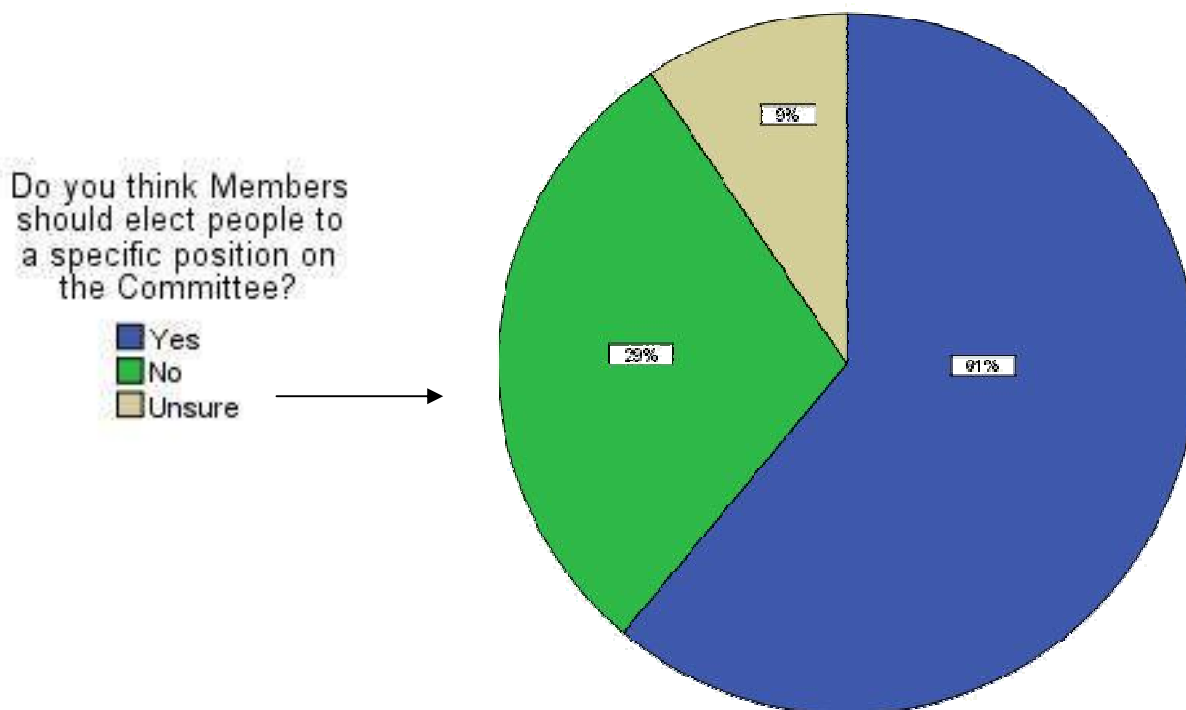
Two comments reflected a desire to have this embodied more fully in the Act.

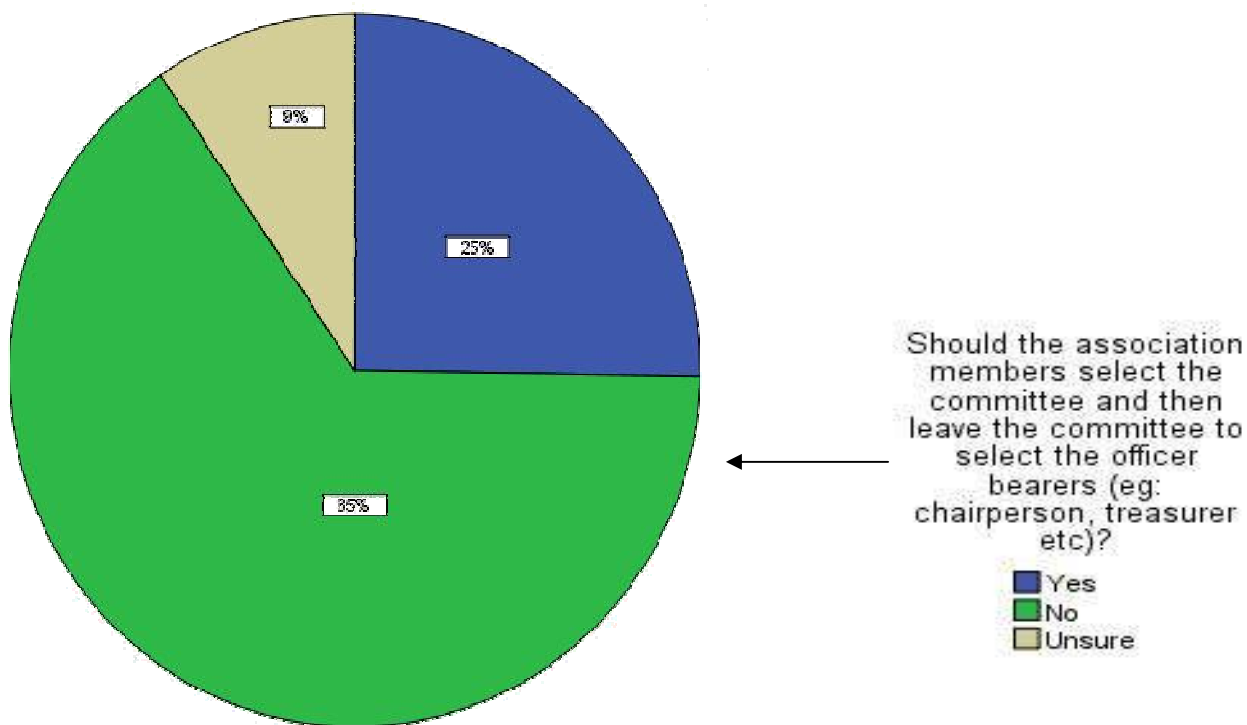
### 9.6. Appointment of Committee Members

In this section two questions were asked about the appointment of positions on the committee. As can be seen below 61% (n58) supported the election of Members to specific committees which accords with 65% (n62) who did not believe the selection of committee positions should be left to the committee, once the Members had elected the committee. Community and historical Associations were more clearly against this suggestion than were those in health-related Associations.

Comments to this question were mixed. A slight majority were in favour of electing Members to specific positions although an overwhelming number of respondents (including those in this category) wanted to use this space to express their opposition to being allowed to nominate for only one position. Almost an equal number to those answering 'yes' were those saying it should be left up to the elected committee to allocate specific positions. Reasons given were that the committee are in a better position to determine who has the appropriate skills etc, as well as being able to fill vacancies easily and efficiently.

Another large proportion of respondents favoured flexibility in allowing individual Associations to decide whether they want to elect Members directly or not. Several other respondents said only office holding Members should be directly elected, not the general committee.





Many respondents to this question simply made reference to their response to the previous question. Of those that did respond directly, the feeling was a fairly resounding ‘no’ – The committee should not elect the office bearers. Some reasons were: the loss of accountability of the whole Association for the leaders elected and the possibility of political manoeuvring ‘behind closed doors’.

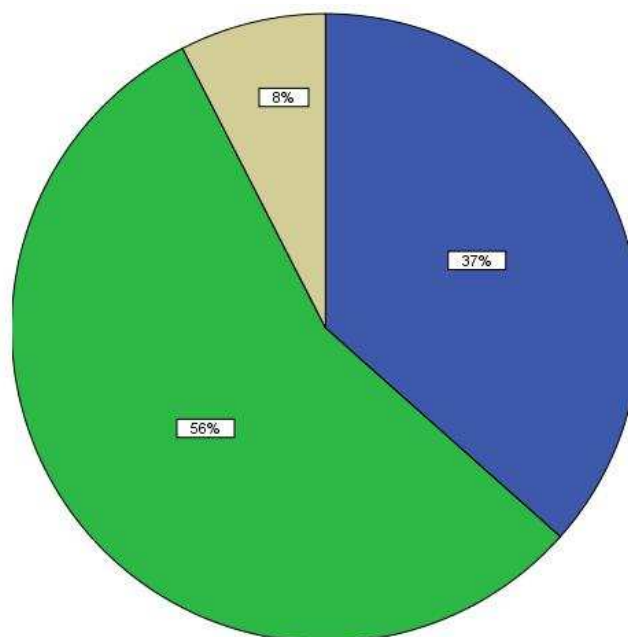
An almost similarly loud response was for this clause to be optional or simply left up to the Association to decide. A few respondents from small Associations reiterated their concerns that it was already hard enough to get Committee Members without extra obstacles. Some respondents were happy for the committee to delegate some positions as long as the whole membership could decide on the main office bearers.

See also page 66 for more comments on this question.

### 9.7. Forms, Schedules and Reporting

Should the Model Rules require the Treasurer to present an estimated annual budget for the year ahead at the Annual General Meeting for endorsement by Members (ie: in addition to a report on the previous financial year)?

- Yes
- No
- Unsure



The above question was proposing that the Treasurer be required to present an annual budget (for the year ahead) at the AGM as well as the past year’s accounts. Only 37% (n34) of respondents agreed with this concept, 56% (n52) disagreed. Trade-related Associations were more clearly in favour of this suggestion than health-related Associations. Those Associations serving Perth metropolitan areas and regions were more in favour than were those serving the metropolitan area only.

Many respondents acknowledged the importance of sound financial planning but realised the burden that would be placed on small Associations. Many thought it was a good idea for large Associations but that it should still be up to each Association to decide.

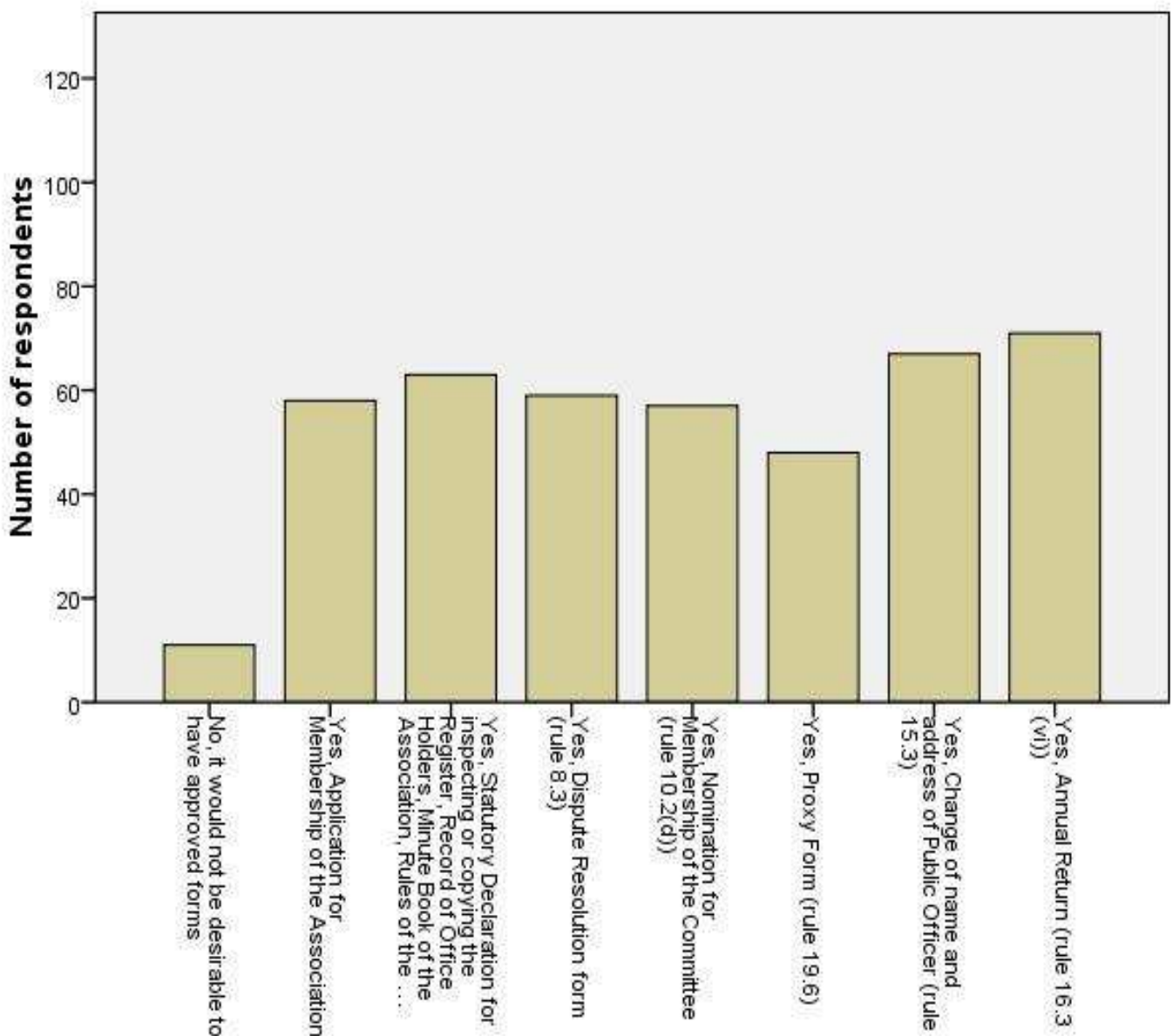
A fairly large number of respondents said the budget was the domain of the committee and that it was not appropriate for it to be approved by the general membership. Similarly, many highlighted the possibility that this provision could ‘lock in’ an incoming committee to the outgoing one’s budget. A number of respondents also said there could be issues relating to the time of the financial year and the Annual General Meeting.

## Standard Forms

In this question more than one option was able to be selected; and as such no percentages are given. As can be seen by the chart below, there was a reasonable level of support for most forms.

While there is nominal difference between the types of forms people preferred, the top three were:

- Annual return
- Change of name and public officer
- Statutory Declaration for inspecting, copying or recording the register of Members.

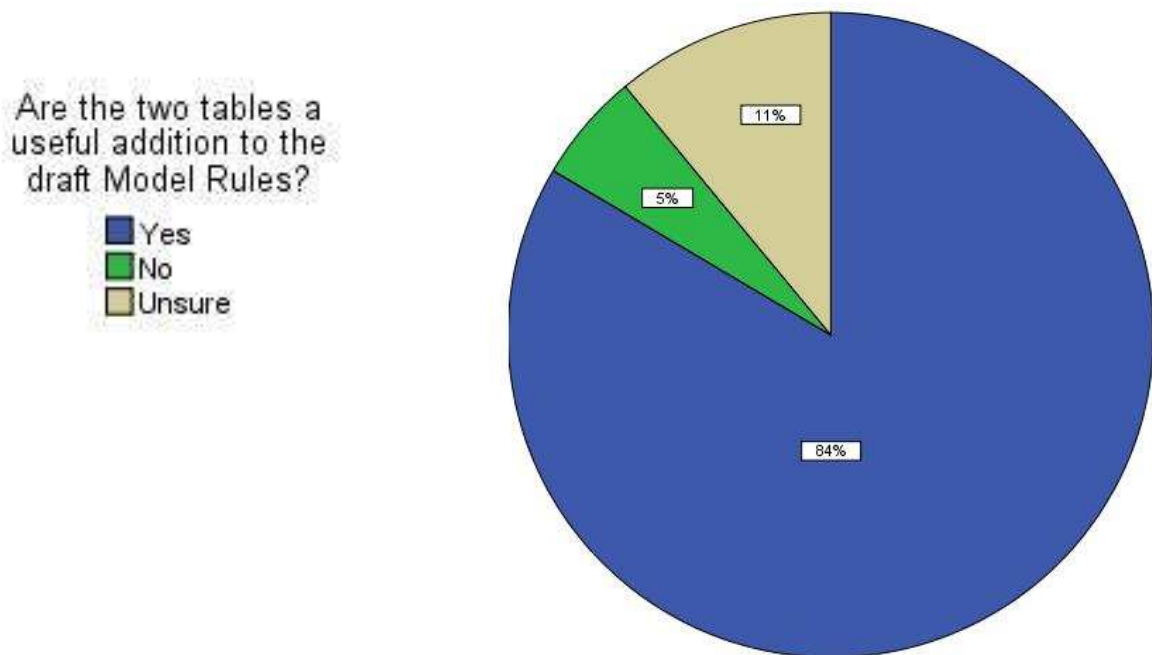


## Schedules and Tables

In the rear section of the draft Model Rules two tables were included that set out which sections of the Act and Items in Schedule 3 of the Act are required to be included in the constitution.

The tables were cross referenced with the Model Rules in order for the reader to easily locate the legislative requirements.

Respondents were asked if these tables were a useful addition to the draft Model Rules.



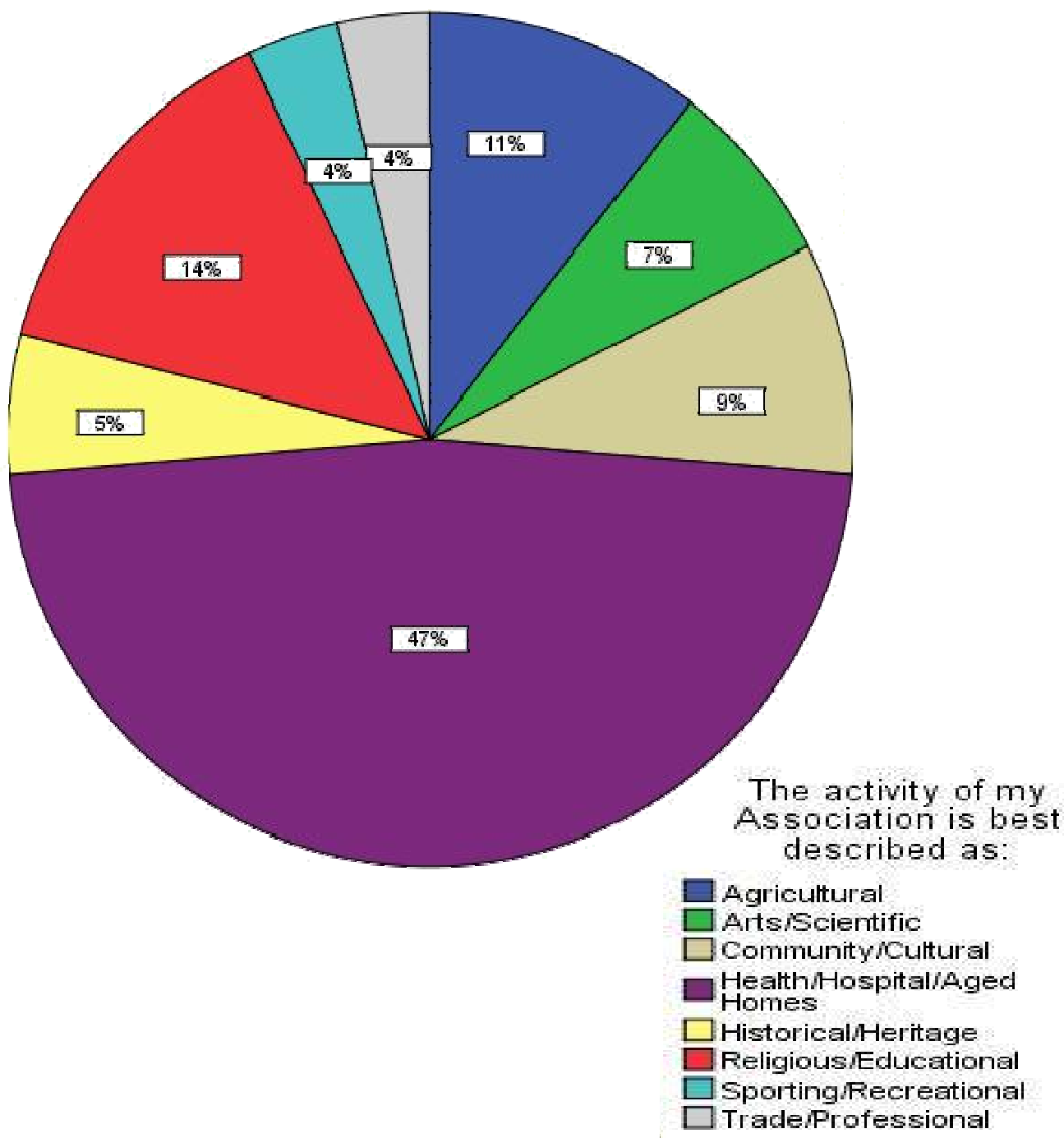
As can be seen by the above chart, the survey showed strong support (84%) (n76) for these tables. Only 5% of respondents (n5) did not support the inclusion of these tables.

The comments in this section offered a range of supportive comments and concerns. The supportive comments regarded any tools that make compliance, understanding and application easier as worthwhile. Four comments found the tool hard to use and understand.

## 10. Survey Respondent Demographics

### Types of Associations

As can be seen by following the chart, the majority of respondents came from the Health/Aged Care sector, representing 47% of respondents. Other than this, there was a relatively even spread of sectors represented in this survey.



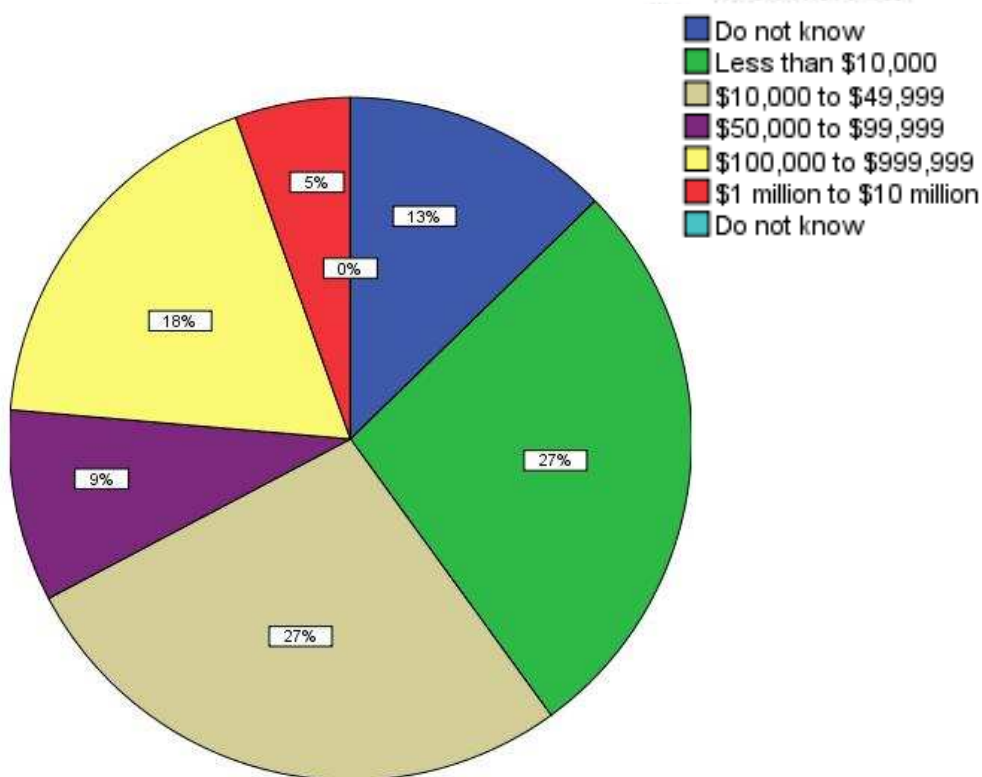
### Size of Association (Turnover and membership)

In this survey two measures were used for the size of an Association:

- 1) The turnover.
- 2) The number of Members.

As can be seen by these two graphs there is a good spread of agencies represented by both turnover and size. With some favouring towards organisations with less than \$50,000 turnover and fewer than 100 Members (i.e. 'smaller organisation').

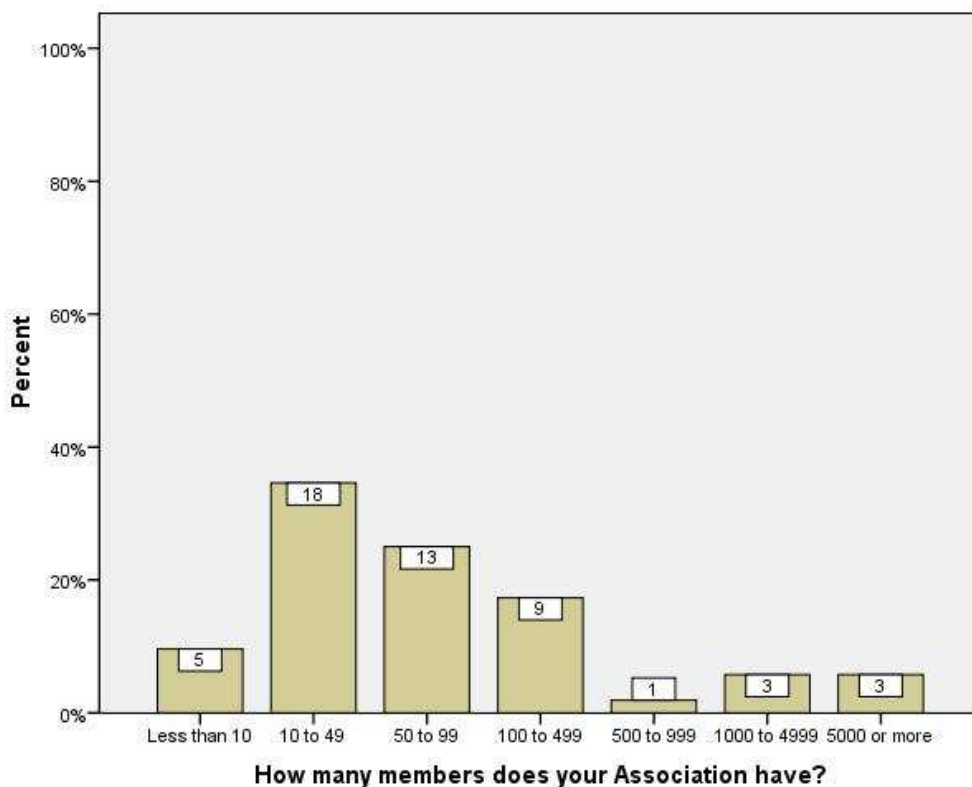
Annual turnover of your Association



### Note on further analysis by size of Association

Analysis of survey responses showed a positive correlation between turnover and number of Members (viz. the more Members the higher the turnover and vice versa).

As such turnover was selected as the measure of size for the remainder of this survey.



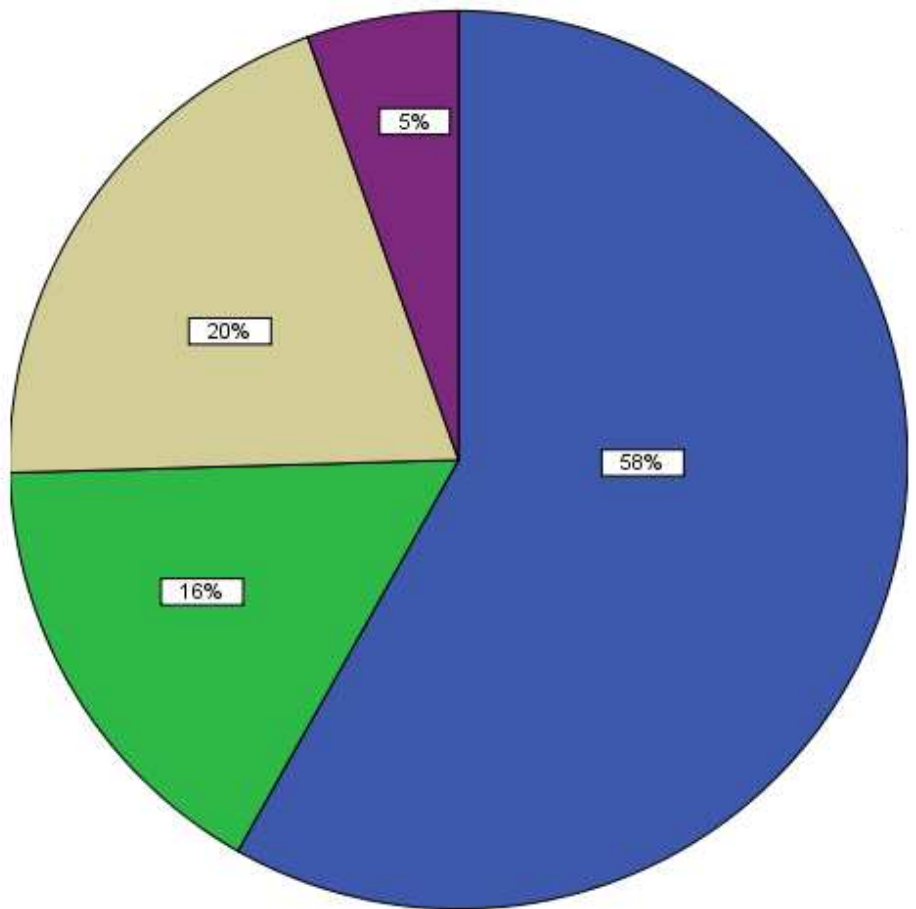
### Geographical representation of respondents

- Perth metro only
- Perth metro and some regional areas
- Regions only
- Whole of state

Respondents were asked where they carry out their primary activities. Their responses were grouped into four categories.

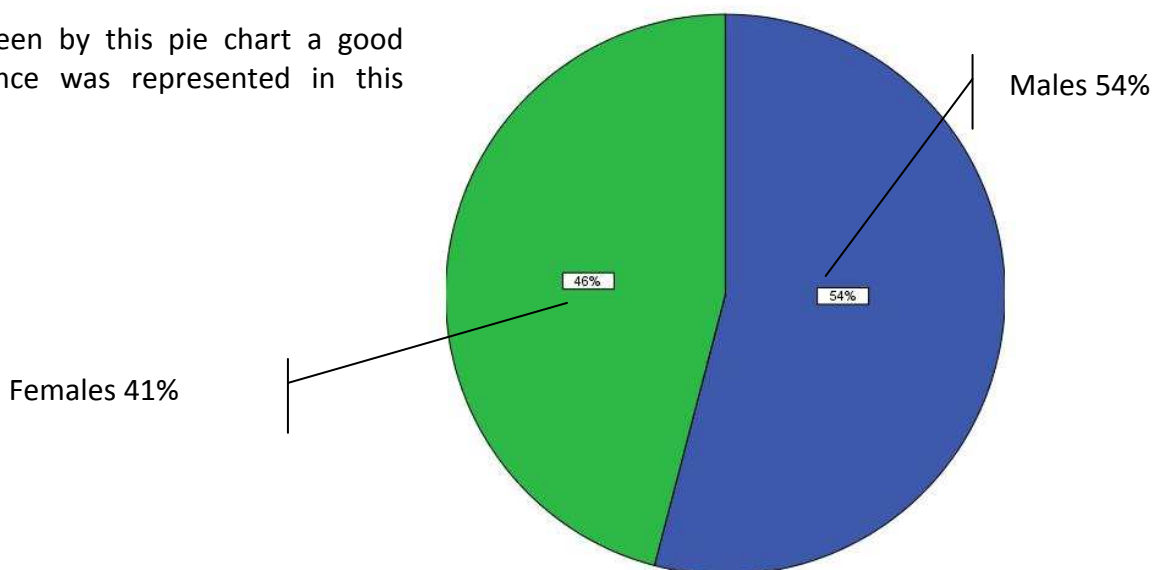
As can be seen the majority of responses were from Associations that service the Perth area (58%). The least represented were Associations that serviced the entire state.

Regional areas were serviced in some form by 42% of the sample. 31% of respondents live in regional WA, with between two and eight respondents originating from within each of the development commission regional boundaries.



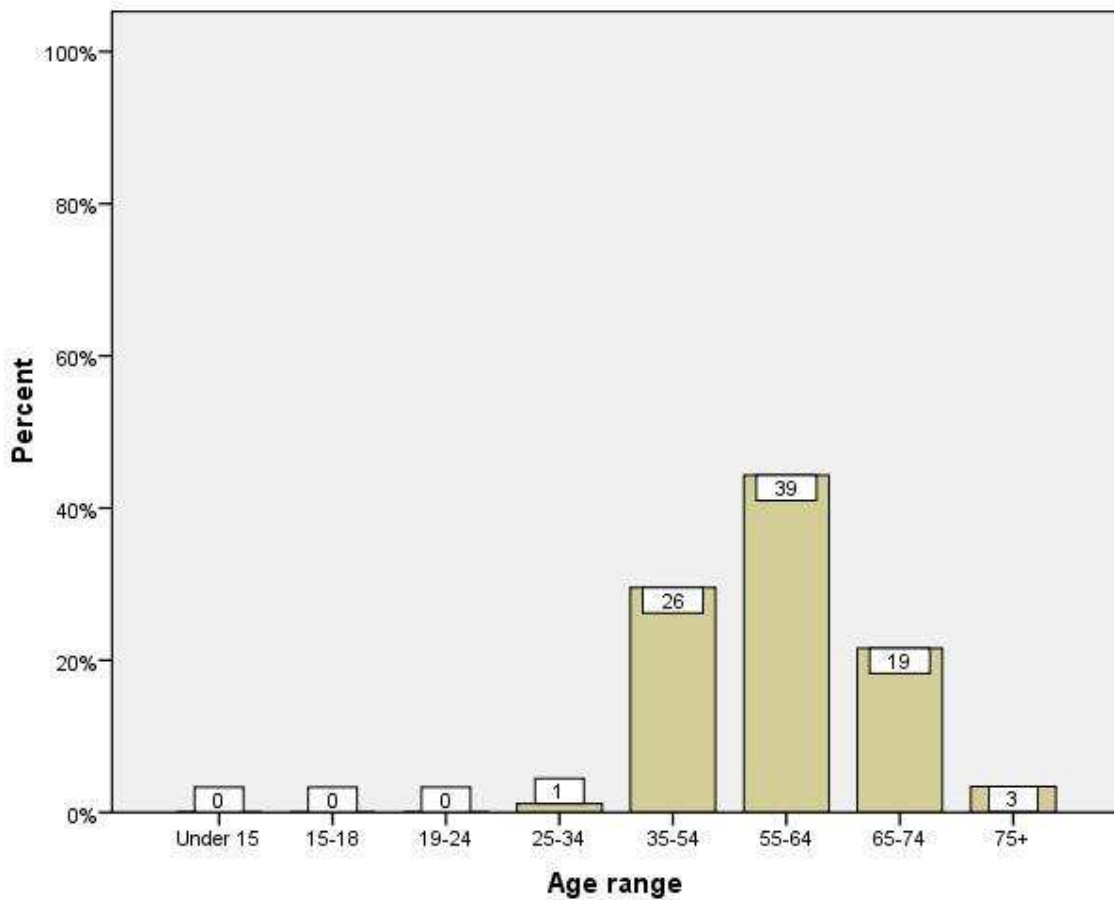
### Gender of respondents

As can be seen by this pie chart a good gender balance was represented in this survey.



### Age range

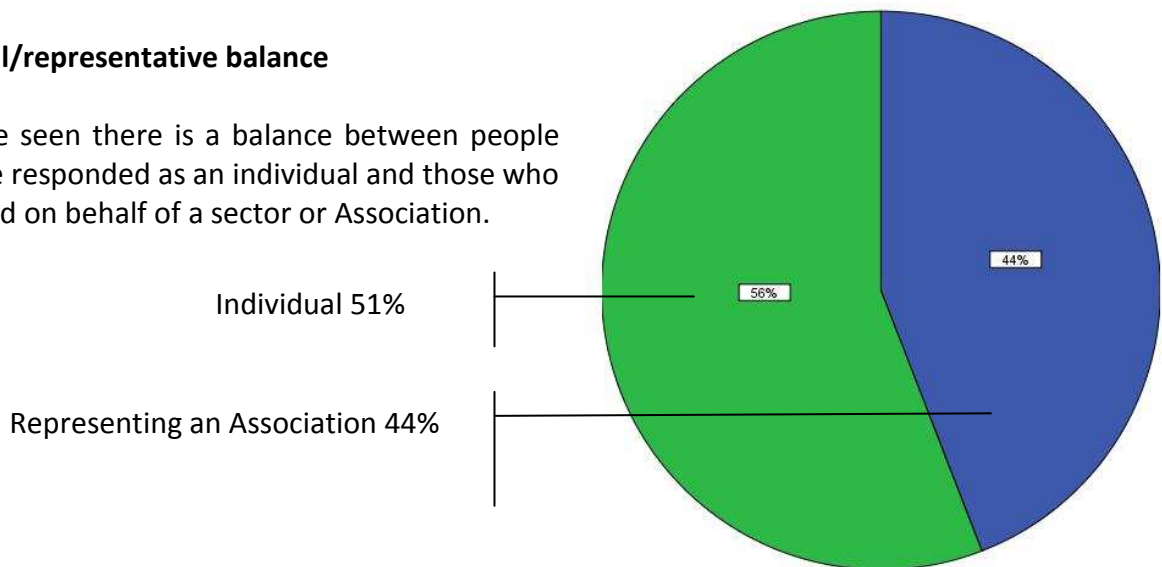
The majority of responses were received from people in the 55-65 years age bracket. With the age range of 35-54 years being the next most represented.



No people under the age of 25 responded to this survey. This is worth noting when considering the consultation question relating to age eligibility for membership and roles on the committee.

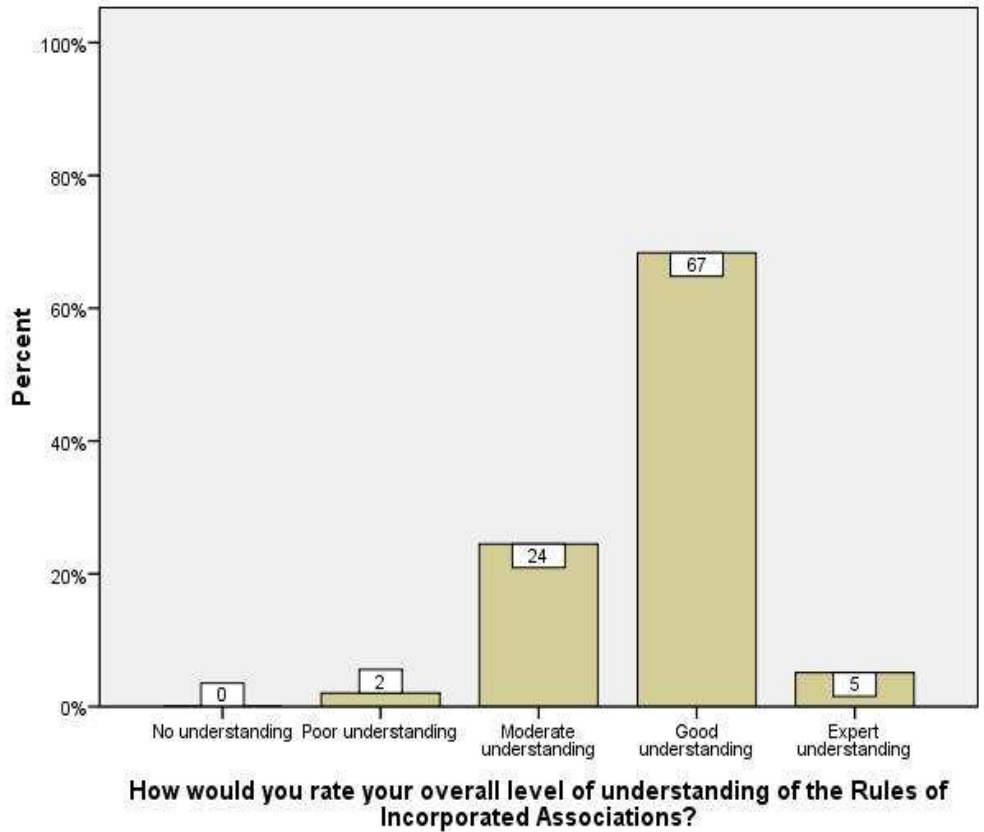
### Individual/representative balance

As can be seen there is a balance between people who have responded as an individual and those who responded on behalf of a sector or Association.

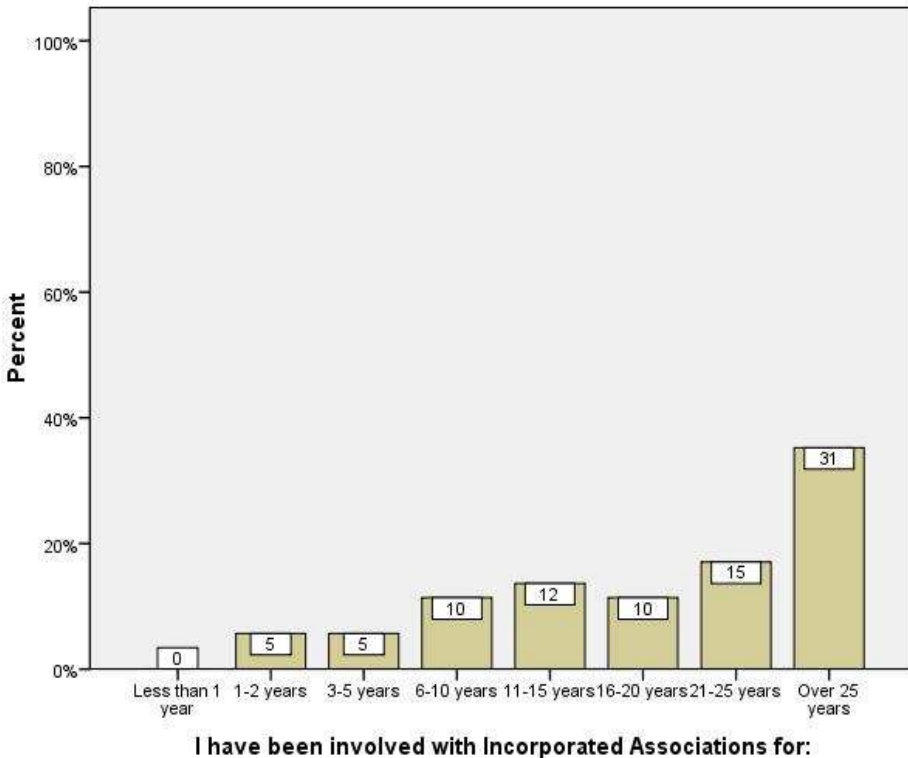


### Understanding the rules of Incorporated Associations

For the following subjective measure (i.e. self selected) a significant majority of respondents (73.5%) (n67) considered they had a good or expert understanding of the rules of Incorporated Associations. 24.5% (n24) of respondents identified themselves as having a moderate understanding, 5.1% (n5) said they had an expert understanding whilst only 2.0% (n2) rated their understanding as poor.



### Background with Associations



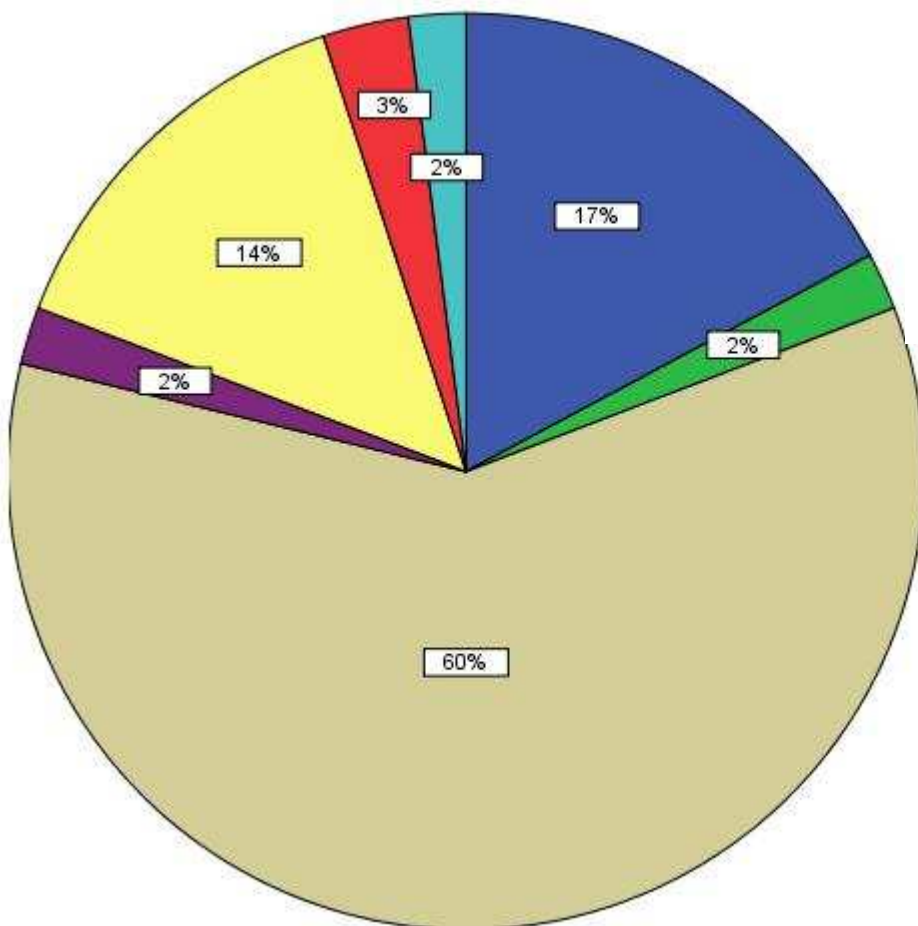
35.2% (n31) of respondents have been involved with Incorporated Associations for over 25 years.

The remaining respondents showed are spread across the range of times shown on the graph.



### My current involvement with Incorporated Associations is best described as...

- Other
- No current involvement
- Committee/Board member
- Member of association
- Association Staff member
- Professional advisor to associations
- Government employee who assists associations



The highest proportion of respondents identified themselves as board/Committee Members. The next highest group were Association staff Members. Those responding 'other' to this question generally included those holding dual or multiple roles.

**- End of Report-**



## 11. Appendix One – Model Rules forum Delegates<sup>8</sup>

Name	Surname	Association /Organisation
Christine	<b>Allbeury</b>	Urban Bushland Council
Greg	<b>Bates</b>	St Thomas More College Council Inc.
Dianne	<b>Begg</b>	Racing & Wagering WA
Bob	<b>Butler</b>	Haemophilia Foundation WA
Michael	<b>Clarke</b>	Scrabble WA Inc.
Anna	<b>Courtman</b>	Canine Association of WA
Vicky	<b>Coyne</b>	Department of Consumer and Employment Protection Working Communities Regional Network
Amanda	<b>Dahms</b>	Wunan Foundation Inc.
Bevan	<b>Dellar</b>	Fairholme Disability Support Group
Adrian	<b>Ellson</b>	Pilbara Regional Council
Greg	<b>Goad</b>	Department of Consumer and Employment Protection
Noel	<b>Harding</b>	Harding and Associates
Trudi	<b>Hodges</b>	Dale Cottages Inc.
Errol	<b>James</b>	Australian Anglo Indian Associations Inc.
Susan	<b>Jordon</b>	WA Primary Industries Training Council
Murray	<b>Joyce</b>	Football Cricket RSL Tribunals
Bronwyn	<b>Kitching</b>	Shelter WA
Jack	<b>Lecras</b>	Lions Club of WA
Lyn	<b>Levy</b>	Western Australian Council of Social Services
Vivienne	<b>Lowndes</b>	Beehive Industries of WA Inc.
Janice	<b>Mason</b>	Learning Centre Link
Robyn	<b>McCarthy</b>	Old Miners Cottage Crafts
James	<b>McGovern</b>	WA Local Government Association
Chris	<b>Mitchell</b>	Kimberley Area Consultative Committee
Will	<b>Morgan</b>	Department of Consumer and Employment Protection
Gary	<b>Newcombe</b>	Department of Consumer and Employment Protection
Neil	<b>Pipe</b>	The Cruising Yacht Club of WA Inc.
Pamela	<b>Robinson</b>	Royal Automobile Club
Roland	<b>Rosario</b>	Royal Association of Justices of WA Inc
Penny	<b>Searle</b>	Independent Theatre Association and
Gordon	<b>Shearwood</b>	Ashlar Glen Senior homes
Rob	<b>Thompson</b>	WA Sports Federation
Rodney	<b>Thornton</b>	Eastern Districts Football League
Pauline	<b>Tremlett</b>	Professional Teaching Council of WA
Sharon	<b>Vertigan</b>	Shire of Roebourne
Vicky	<b>Webb</b>	Kojonup Working Inc.

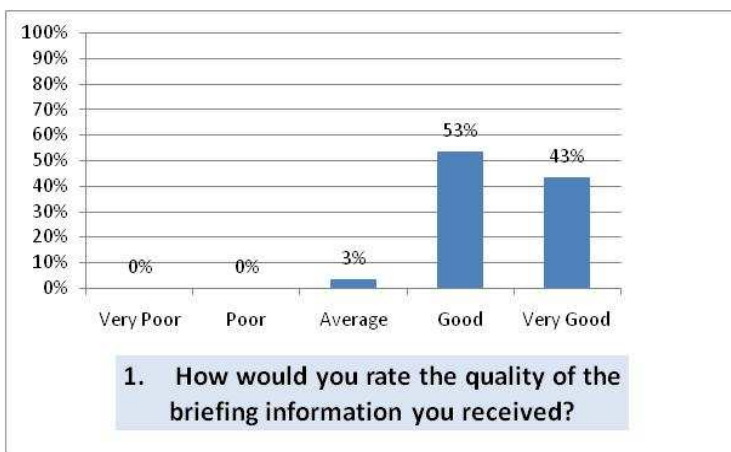
### Delegates unable to attend on the day

Rod	<b>Henderson</b>	Combined Small Business Alliance of WA Inc.
Andrea	<b>Lace</b>	Law Society WA
Chris	<b>Osborn</b>	Dogs Refuge Home Inc
Amber-Jade	<b>Sanderson</b>	LHMU

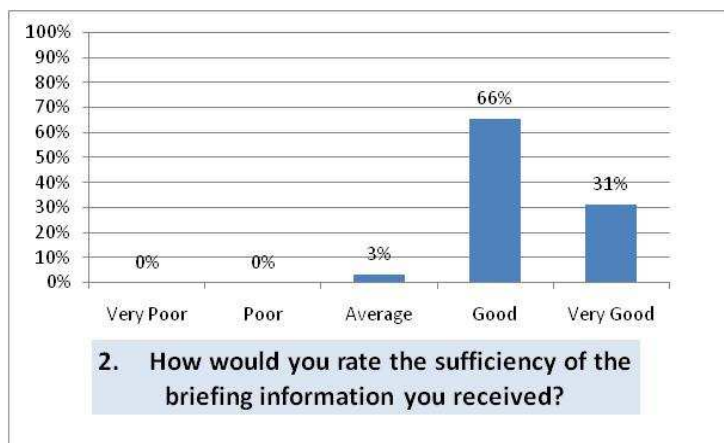
<sup>8</sup> Presented in alphabetical order of Surname

## 12. Appendix Two – Forum Evaluation

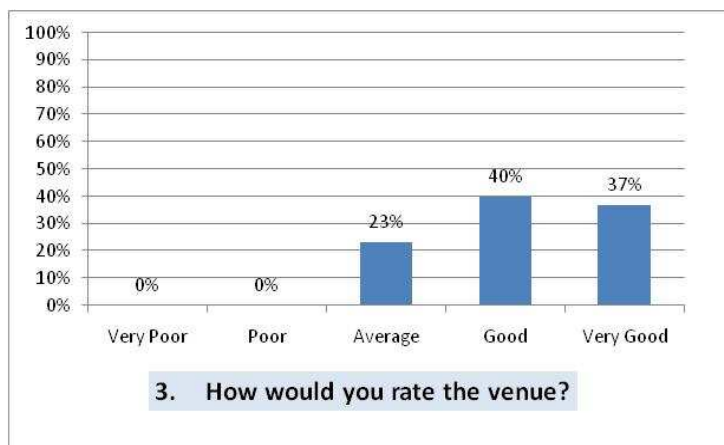
At the end of the forum delegates were provided an evaluation form (83.3% or 30 forms were returned). In these analyses one response approximates to 3% (this may vary between charts if a delegate has not answered a specific question). In the following charts, percentages given are rounded, as such some may not equal 100%.



As can be seen 97% of delegates rated the quality of briefing information as either very good (n13) or good (n16). One delegate rated this as average.

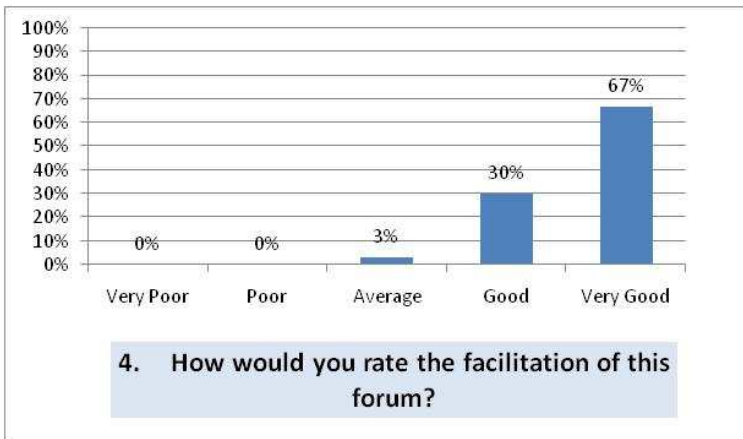


97% of delegates rated the sufficiency of the briefing information received as either very good (n9) or good (n19). One delegate rated this as average.

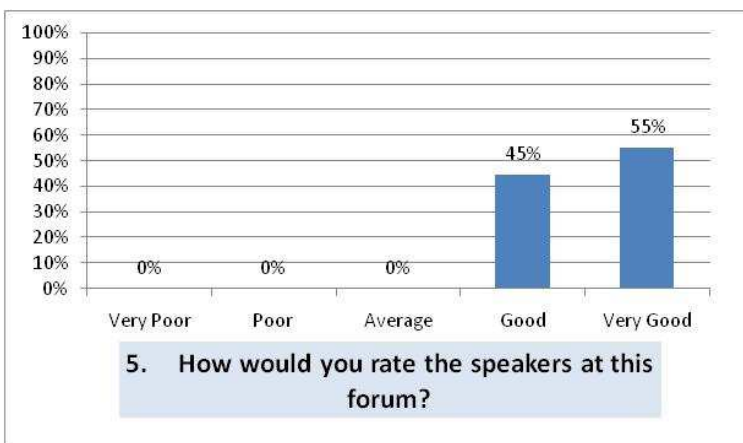


The venue was the lowest rated element of the feedback received although 76% of delegates rated it as very good (n11) or good (n12). Anecdotal comments referred to the second floor location with limited access options.

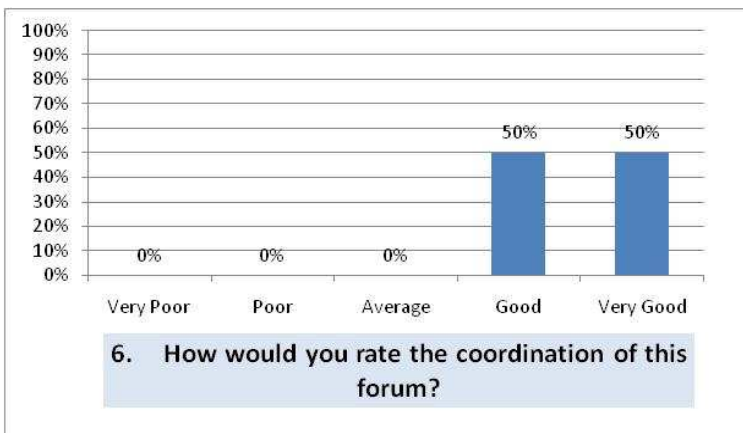




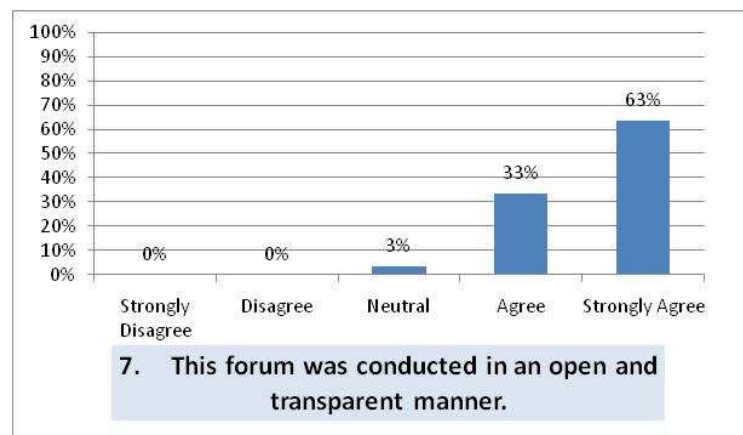
97% of delegates rated the facilitation of the forum as either very good (n20) or good (n9). One delegate rated this as average.



100% of delegates rated the quality of speakers as either very good (n16) or good (n13).

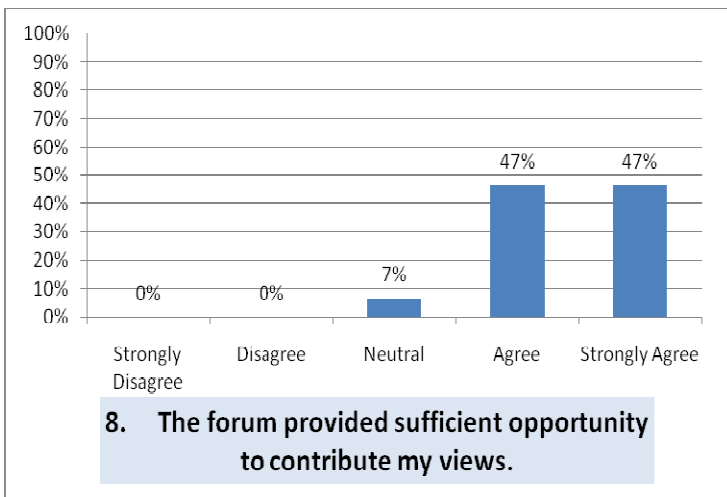


100% of delegates rated the coordination of the forum as either very good (n14) or good (n14).

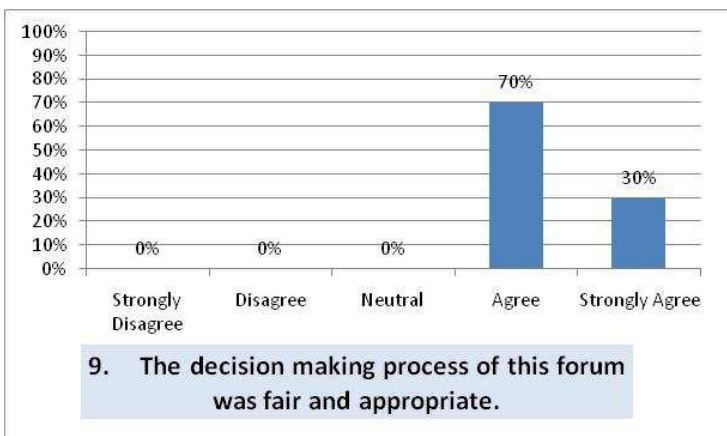


97% of delegates either strongly agreed (n19) or agreed (n10) that the forum was conducted in an open and transparent manner. One delegate was neutral on this matter.

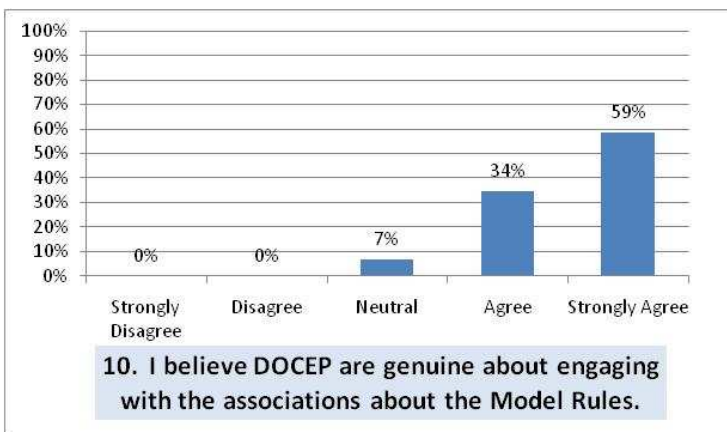




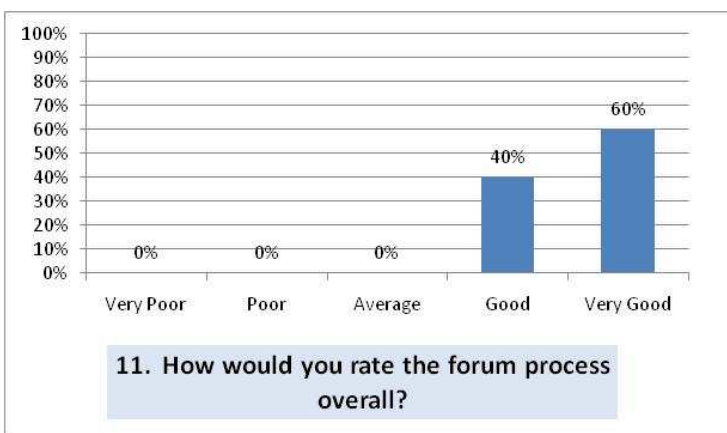
94% of delegates either strongly agreed (n19) or agreed (n10) that the forum provided sufficient opportunities for delegates to contribute their views. Two delegates (7%) were neutral on this matter.



100% of delegates either strongly agreed (n9) or agreed (n21) that the decision making process at the forum was fair and appropriate.



93% of delegates either strongly agreed (n17) or agreed (n10) that DOCEP were genuine about engaging Associations about the Model Rules. Two delegates were neutral on this matter.



100% of delegates rated the forum process as either very good (n18) or good (n12).



## 12.1. Comments

The following are the comments made by delegates about the forum on the evaluation form. The main themes focused on an appreciation of the process and the need for quality implementation.

- Many thanks for engaging INC (sic) buddies regarding this. The concept of “Model Rules” is very much appreciated.
- The Model Rules and Act once finalised need to have clear communication and training to individuals and Associations. The way in which they are communicated and the support available will be as important as the content of the documents.
- The range of representation was impressive and the level of participation very good.
- Excellent day, good value. Joel professional from 9-5. Thank you.
- I am still **very** concerned about the membership lists. I do not feel that a statutory declaration would prevent anyone intending to misuse the information. I cannot stress sufficiently the concern for the safety of children and other innocent parties expressed by many of our Members. They have to deal with the problems associated with abusive parents, family separations, the rights of both parents and extended families, restraining orders etc on a daily basis. Ordinary people cannot be expected to have PO boxes to lead normal lives. Overall the consultation has been an excellent process, which should be emulated by more government (and other) instrumentalities. The support and educative function/role of DOCEP will be critical to effective implementation without the loss of too many more community based Associations.
- It will be interesting to see the final outcome. It will be important to ALL Associations to be advised of the requirements (IN CAPITAL LETTERS).
- I consider that I learnt more than I contributed. The results dealt very fairly with rural community groups. It was good to find out about proxies for AGM’s.
- There is obviously a huge need for education on practices and procedures.
- I hope the same consultation process will be used before implementing the new rules.
- Congratulations to all concerned on a difficult task.
- I appreciated the DOCEP info session – very well run and informative.
- Having LIZ here was brilliant. Instant answers to questions. I’m confident that she and DOCEP listened to everything said. Great opportunity to be part of this process. Thank you.
- Well done.
- All good, great job Joel, Well done.
- Please ensure the final draft of the white paper is circulated (despite the fact that the parliamentary process may change the final bill).
- Useful session, how long is it likely to be before the Act comes out?
- Excellent process, good depth of people involved. Well organised and well run, thanks.
- Thankyou for the opportunity. It is greatly appreciated to be able to respond. I ask that you now continue your good work by providing top level support with implementation. Provision of appropriate materials to enable Incorporated Associations to continually grow and provide the great service currently done.
- Training to be provided to all Committee Members, their constitutions, their Model Rules, thankyou.
- I would expect that the people attending this forum would have had a greater knowledge of the Green Bill/Act to move the process forward. This is not a criticism of the process and information provided as it was clearly stated the people needed to read the information. This impacted on getting a bit bogged down. It was very good to have the diversity of views. Thanks.

### 13. Appendix Three – Survey Results- Section by Section Comment

Respondents were given the option of commenting on one, all or none of the specific sections in the draft Model Rules. Just under 56% of respondents (n61) provided a response to one or more parts of this section. As might be expected, not all respondents that completed this part of the survey commented on every section of the draft Model Rules. This level of response rate per section has made it difficult to extrapolate a thematic response.

This means that some specific suggestions (e.g. typographical suggestions etc) cannot be captured in this report, without replicating all responses. As such, the summary provided below is brief and comments are made where possible about any trends in relation to the source of these comments (e.g. representing larger or smaller organisations etc). Because of this, a full transcript of responses has also been developed and is available as a separate attachment (attachment “Make Your Own Rules” - Stakeholder feedback March 2008).

#### **IMPORTANT NOTE**

*While the following summarised comments are an accurate reflection of comments received, they MAY NOT constitute an accurate interpretation of the Model Rules or the Green Bill.*

*As such collated views are just that, a ‘collation’ as opposed to a formal opinion of impact.*

*Readers are advised to seek clarification as required.*

**13.1. This box appears in each section and represents the number of people that said this section requires either some or significant change and where this ranked in relation to the other sections.**

X people said this section required some or significant change.

This ranks it Nth for level of change

**13.2. Section 1. 'NAME, POWERS, OBJECTS AND RULES OF THE ASSOCIATION'**

Comments most commonly focused on clause 1.4 (b) relating to provision of these rules to Members. There are concerns about the potential impact of requiring small volunteer Associations to provide free copies of the membership list. Some respondents also questioned the mandatory requirement for this clause.

5 people said this section required some or significant change.

This ranks it equal 10<sup>th</sup> for level of change

One respondent highlighted the possible need for Associations to state their objects in detail and feared this may cause rule 1.2 (a) to become overly lengthy as well as difficult to interpret and apply. A separate rule for objects was suggested.

**13.3. Section 2. 'INTERPRETATION'**

The main comments in this section relate to preferences in the presentation of this information and the level and type of detail required.

It was suggested that this section be included as an appendix/schedule rather than in the constitution to allow for greater flexibility and amendments. The need for the Australian dollar to be specified was questioned and the use of gender neutral terminology was requested (echoed in many sections).

5 people said this section required some or significant change.

This ranks it equal 10<sup>th</sup> for level of change

One comment highlighted the need to make allowances and provision for electronic meetings and communication.

**13.4. Section 3. 'BECOMING A MEMBER'**

The dominant feedback from this section is in relation to the need for the written application for membership, with a nomination and seconder. Many different groups from toy libraries, religious organisations and sporting clubs expressed concern about the need and ability for their group to comply with this rule.

15 people said this section required some or significant change.

This ranks it 3<sup>rd</sup> for level of change

Another comment pertained to age restriction of Members and clarification of junior membership e.g. in the instance of sporting clubs. It was advised that the rights of minors to contract and the enforceability of this needs to be considered in more detail.

There was a concern as to when the 28 day time frame (rule 3.6) commences to operate as well as for the necessity of applications to be considered in the order that they are received.



### 13.5. Section 4. 'MEMBERSHIP FEES'

The dominant comment in this section related to need for greater clarity of the term 'fee' and where it would be applied (e.g. Financial year, Calendar year start and end dates etc) and more flexibility/discretion in the application of this section. For example, a provision for extending the time to pay; allowing entrance fees to be optional; and fees payable on a pro rata basis.

7 people said this section required some or significant change.

This ranks it equal 9<sup>th</sup> for level of change

Other views included a suggestion to cap fee increases to 10% without membership approval and questioned the legitimacy of giving Members full rights and privileges if the fees are not paid in full.

### 13.6. Section 5. 'LIABILITY AND ENTITLEMENTS OF MEMBERS'

In dealing with the definition and types of memberships there was clear support for the provision of a clear definition for the type of Members and their respective rights/responsibilities. This would include clarifying if life/honorary membership and ordinary membership are mutually exclusive (Can a Member be both?)

9 people said this section required some or significant change.

This ranks it equal 7<sup>th</sup> for level of change

Comments were mixed as to whether the definitions should be binding within the rules or simply be examples to guide Associations. One respondent raised concern to the legal right of Members to be remunerated (5.5) and the impact of this provision on the honorary nature of Associations (This comment is echoed in other sections also).

Other comments looked at areas such as:

- Defining the rights of life Members (e.g. does this mean free membership for life?).
- Clarifying whether it is the committee or the Members (AGM) that should determine the rights and benefit of Members?
- The potential challenge in specifying the requirement for membership being a "natural person" if the Association is a representative body of other Associations.



### 13.7. Section 6. 'CEASING TO BE A MEMBER'

There were less consistent themes in this section. Whilst there was recognition that some guidelines are required to outline the type of conduct that is deemed to be detrimental to the interest of the Association, there were differences in what and where these lines should be drawn. Some comments suggested providing examples then leaving it up to the Association.

Some comments suggested removing the optional nature of 6.3 (a) (iii) regarding criminal charges for fraud and the impact on membership. Some questioned why this provision was limited to only fraud.

Regarding grounds for appeal; one comment suggested the need for a tribunal system. Another stated the need for a provision for the committee meeting to adjourn to be able to gather more information.

Formal written resignation was considered a burden for Associations where Members leave by natural progression e.g. child care. Resignation should come into effect once notice is received by the committee, not the Secretary.

9 people said this section required some or significant change.

This ranks it equal 7<sup>th</sup> for level of change

### 13.8. Section 7. 'MEMBERSHIP REGISTER'

The membership register provided a range of comments such as:

- Potential liability for the Association from register misuse (e.g. marital disputes) despite it being provided in good faith.
- The inclusion of a requirement for email addresses and the possibility of an electronic list being as an alternate method of access.
- Setting a time limit to view the list.
- Recognising that with today's technology, means other than transcription by hand be considered.
- Specification of the location of the list.

8 people said this section required some or significant change.

This ranks it equal 8<sup>th</sup> for level of change

Religious organisations and/or sponsors may take issue with the register not being used for religious and commercial purposes under 7.4 (b).

One comment highlighted the impracticality of keeping the register for seven years, particularly for small Associations. It was also suggested that parts of this section may conflict with federal privacy legislation.

### **13.9. Section 8. 'RESOLVING DISPUTES'**

In this section the most common comment related to a need to define the parameters of the dispute – what constitutes a 'dispute'?

There was some confusion relating to rule 8.1 (b) – the definition of 'Member' and the ability of people who ceased to be a Member to still be involved in conflict resolution. Some respondents called for flexibility in allowing Associations to handle disputes their own way and noted that some religious groups have conflict resolution processes that run contrary to the rules.

11 people said this section required some or significant change.  
This ranks it equal 5<sup>th</sup> for level of change

One comment called for a different resolution process for when the Secretary and/or a majority of Committee Members are involved in a dispute. Clarification was requested as to the actual powers of a mediator as well as the course of action when mediation produces no result. There was a suggestion for informal arbitration in conflict resolution as well as a provision to take disputes to even higher levels of authority.

### **13.10. Section 9. 'POWERS AND COMPOSITION OF THE COMMITTEE'**

There was strong opposition to rule 9.2 (d) which states that no person shall be entitled to hold more than one position. This was considered highly impractical for small organisations. There was also concern as to why positions must be held by Members since some Associations may have paid employees who look after these jobs e.g. Secretary and Treasurer. A church group stated the rules may impose on the discretionary powers of the Pastor to make minor decisions without consultation with the committee.

11 people said this section required some or significant change.  
This ranks it equal 5<sup>th</sup> for level of change

Clarification was requested over the difference between general and special meetings and there was a call for provisions pertaining to deputy Committee Members, temporary vacancies and corporate governance.



### **13.11. Section 10. 'ROLE AND RESPONSIBILITIES OF COMMITTEE MEMBERS'**

Responses in this section were varied although there was a sentiment that the requirement for the presentation of a Solvency Statement under rule 10.1 (d) was unnecessary and difficult for small Associations. The same pertains to the obligation for indemnity under 10.8.

Other comments related to remuneration: Member's legal right to remuneration, travel expenses needing to be subject to the availability of funds and also how remuneration may affect funding contracts.

Responses to the Consultation Note were positive - Committee Members should have a duty of care and show good faith to the Association. One comment stated that the Treasurer and Vice Chair should be optional positions. A church group thought rule 10.4 may interfere with the Pastor's job to take care of correspondence. There was a request for a provision pertaining to the duties of paid staff. As echoed in other sections – one comment said financial reports should never be reported verbally.

12 people said this section required some or significant change.

This ranks it 4<sup>th</sup> for level of change

### **13.12. Section 11. 'APPOINTING COMMITTEE MEMBERS'**

There were a number of comments in favour of the Consultation Note agreeing that Members should vote on specific positions. There was also general agreement that people should be able to nominate for multiple positions. There was an issue with the need to have nominations in 28 days before the AGM as the election will be done without knowledge of financial reports. One comment had a concern that Committee Members would be likely to nominate each other as they see each other more often.

The length of terms and rules regarding re-election was stated as too prescriptive and may make it hard for small Associations or those in less populated areas to find people to fill the positions. A request for a provision pertaining to absentee voting was also made.

10 people said this section required some or significant change.

This ranks it equal 6<sup>th</sup> for level of change

### **13.13. Section 12. 'CEASING TO BE A MEMBER OF THE MANAGEMENT COMMITTEE'**

Responses to this section were very limited. It was questioned why an insolvent person cannot hold a position within a community group (12.1). The same question arose regarding a person with a permanent physical disability.

Regarding resignation under 12.2 (b) – It was stated (here, as well as in other sections) that resignation should only take effect once accepted by the Committee, not when received by the Secretary.

3 people said this section required some or significant change.

This ranks it 12<sup>th</sup> for level of change

### **13.14. Section 13. 'COMMITTEE MEETINGS'**

There was strong support for the deletion of optional rule 13.8 Resolutions without Committee Meetings.

Rule 13.2 (c) which states that business conducted at a meeting must only be that which is on the agenda was considered by a comment as too restrictive.

Other comments included: One week being insufficient time to convene a second meeting; the need for provisions outlining limits on time between meetings; the powers of the Chair regarding the proceedings of meetings.

10 people said this section required some or significant change.

This ranks it equal 6<sup>th</sup> for level of change

### **13.15. Section 14. 'SUB-COMMITTEES'**

The only comment in this section is for the term "Subsidiary Office" to be placed in the definitions section.

1 person said this section required some or significant change.

This ranks it 14<sup>th</sup> for level of change

### **13.16. Section 15. 'PUBLIC OFFICER'**

This section provided some of the most passionate responses and most revolved around the necessity for Associations to have a Public Officer. Overwhelmingly, the feeling was that this is unnecessary and many feared the penalties imposed on the Public Officer in the case of non compliance and overall felt that finding a person to fill this role would be difficult.

There was a strong call for the rules to detail the duties and responsibilities of the Public Officer. There were also several calls for the President to be the Public Officer as well as mixed opinions as to whether the Public Officer should be a Committee Member or not.

14 people said this section required some or significant change.

This ranks it 1<sup>st</sup> for level of change

### **13.17. Section 16. 'ANNUAL GENERAL MEETINGS'**

There was strong support for the time and length in which to convene an AGM after the end of the Association's financial year be shortened. Five months was considered too long and it was noted that many financial reports would be out of date by then (NB: the current provision is four months).

There were a few calls for the Committee to present a strategic/operational report at the AGM.

4 people said this section required some or significant change.

This ranks it 11<sup>th</sup> for level of change

### **13.18. Section 17. 'SPECIAL GENERAL MEETINGS'**

This section provided limited responses. Comments included: A request for better definition of 'Special General Meetings'; further discussion needed regarding the number of Members required to call a Special General Meeting; Untenable time limits due to venue availability.

5 people said this section required some or significant change.

This ranks it equal 10<sup>th</sup> for level of change

### **13.19. Section 18. 'PROCEDURE FOR GENERAL MEETINGS'**

Comments favoured the discretion of Associations to set their own quorum size saying requirements under the rules are too restrictive. Regarding adjourned meetings, comments favoured a clause stating the requirements are subject to venue availability.

8 people said this section required some or significant change.

This ranks it equal 8<sup>th</sup> for level of change

There was a suggestion to allow an external person to act as Chair for a particular meeting e.g. during conflict. One comment called for provisions to ensure regional and remote Members have access to participate at meetings.

### **13.20. Section 19. 'MAKING DECISIONS AT GENERAL MEETINGS'**

Comments in this section varied. A few were worried by the power given to the Chairperson to exercise a casting vote and requested this be optional. One comment stated the limit of five proxies could harm regional and remote Members. However, another said the number should be reduced to three. A couple of comments supported 19.4 Option A, saying proxies should not be permitted.

10 people said this section required some or significant change.

This ranks it equal 6<sup>th</sup> for level of change

Rule 19.1 (e) requires clarification as to whether 'three quarters' refers to total membership or just those eligible and present. Rule 19.3 (e) requiring a name on the register for eligibility to vote was stated as restrictive as Members don't have direct control over the register. It was suggested that voting be allowed in writing via voting forms as well as the need for a provision to allow postal votes.

There was some confusion in relation to 19.3 (d) its relationship with 4.1 and 4.2 – All monies must be paid to be eligible to vote. The confusion surrounded the due date. There was also confusion expressed about 19.1 and whether the notification process for a special resolution was separate to the notification for a General Meeting.

### **13.21. Section 20. 'MINUTES OF MEETINGS'**

There were limited comments for this section. A comment (which appeared in other sections also) stressed the need for transparency of the meeting minutes to ordinary Members. It feared that, in the current draft, access to the minutes appears rather hard. One comment challenged the necessity of the Secretary to record the names of all Members present at a meeting saying it would take up too much time.

3 people said this section required some or significant change.

This ranks it 12<sup>th</sup> for level of change

### **13.22. Section 21. 'FUNDS AND ACCOUNTS'**

Comments regarding Funds and Accounts were overwhelmingly opposed to the requirement for Associations, particularly small ones, to finance an audit. There was also strong opposition to the Consultation Note regarding the necessity of future budgets having to be approved and many stated the impact of this on the flexibility of Association's expenditure. Similarly, most opposed the need for two signatures to ratify expenditure.

16 people said this section required some or significant change.

This ranks it 2<sup>nd</sup> for level of change

Clarification was requested regarding whether receipts must be issued upon receiving direct deposits e.g. from funding bodies.

Two respondents questioned the keeping of financial records for seven years (21.4 (a)) when the ATO only requires five years. Another respondent thought the requirement that all monies be deposited "without deduction" (under rule 21.2 (b) (i)) was too restrictive and impacted on the financial flexibility of Associations.

### **13.23. Section 22. 'AUTHORITY REQUIRED TO BIND ASSOCIATION'**

Comments in this section included the burden on small Associations through being required to have two signatures for documents not under seal. It was stated that this runs contrary to the Act which allows a single person with expressed or implied authority to bind the Association by contract in writing. One comment questioned the necessity that all Associations must have a common seal. There was a call for greater flexibility in relation to what book the records of seal use are kept in (22.2 (c)).

2 people said this section required some or significant change.

This ranks it 13<sup>th</sup> for level of change

**13.24. Section 23. 'THE ASSOCIATION'S BOOKS AND RECORDS'**

Comments regarding the Association’s books and records included: A request for the committee minutes to form part of the Association’s books and records (and again mention was made as to general Members access to these minutes); the impracticality of the Secretary being custodian and this having an effect on paid employees who need constant access; and the need for a time limit when Members inspect the books and records.

7 people said this section required some or significant change.

This ranks it equal 9<sup>th</sup> for level of change

One comment stated that the rule (23.4) regarding the return of books would be difficult to apply and suggested it simply be a by-law.

**13.25. Section 24. 'WINDING UP AND DISTRIBUTION OF SURPLUS PROPERTY'**

Most comments related to the transfer direction of assets etc. upon ‘winding up’. Organisations with national peak bodies associated in states other than WA had issues with this section.

12 people said this section required some or significant change.

This ranks it equal 4<sup>th</sup> for level of change

One respondent thought 24 (b) (iii) – Transferring assets to corporations - could be subject to misuse. A request was also made for a provision pertaining to the transfer of assets in part or in full.

A few comments required clarity of the term ‘Body Corporate’ and wondered if this related to local government. There was a concern as to how this section applies in relation to some Association’s ATO requirements.

**13.26. Other comments?**

The majority of ‘other’ comments related to the impact of the rules on small Associations, particularly those comprising of volunteer Members. The main sentiment was that the rules imposed, often harshly, on the discretion and flexibility of small Associations and burdened them with unnecessary administrative work. Many respondents felt the rules worked in favour of larger, more solvent Associations to the detriment of smaller ones. There was considerable fear regarding penalties for non-compliance and there were concerns that the rules may deter people from executive positions as well as from community based organisations altogether!

On the other hand, there were quite a few comments welcoming the Model Rules in (mostly) its entirety – comments that weren’t so visible in the individual sections. These respondents welcomed the rules and noted them as long overdue. The document was considered fairly easy to read and interpret.

Other comments focused on the lengthiness of the document and a table word count comparison was even made with the existing rules. Some respondents also used this section to repeat their comments from other sections.

**- End of Appendixes-**

