



Australia Council :

Register of Peers Handbook

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1. INTRODUCTION

Foreword

The purpose of this handbook is to provide information on the Register of Peers as well as the role of peers within the Australia Council's organisational framework of the Council, boards, committees and advisory bodies including assessment panels (panels).

If you need information that is not contained in this handbook about the Register of Peers or more generally about the Council, the Secretariat section of the Corporate Affairs Division or the appropriate director, will be happy to help.

Definitions

- Advisory Bodies:** Committees and assessment panels established to advise the Council that have not been delegated with decision-making powers by the Council.
- Board:** Boards are established by the Minister for the Arts on the recommendation of the Council which delegates powers to them. Boards make funding decisions on applications and provide advice to Council on the development of artform policy.
- Board member:** Board members are peers appointed to a board by the Federal Minister for the Arts.
- Committee:** Committees are established by the Council. They may be delegated decision-making powers by the Council or may have a purely advisory role.
- Committee member:** Committee members are peers appointed to a committee by the Council.
- External assessor:** An external assessor is a peer drawn from the Register of Peers to provide an assessment of one of more applications, performances or required support material. Assessments are made externally to a board, committee or panel meeting.
- Panel:** Advisory assessment panels are established by staff to provide access to a peer assessment process but do not have decision-making authority. Instead, they make recommendations on applications to senior officers who have a funding decision-making power delegated to them by the Council.
- Peer:** The term "peer" covers members of Council, boards, committees, assessment panels and members of the Register of Peers. Council has determined that a peer is "Anyone who, by virtue of their knowledge or experience, is equipped to make a fair and informed assessment of artistic work and grant applications".
- Participating adviser:** A participating adviser is a peer drawn from the Register of Peers to participate in board, committee or panel meeting.

Register of Peers The Register of Peers is a database containing the names, contact details and areas of expertise, of all those people who have expressed an interest (through completion of an registration form) in assisting Council as a peer.

Purpose of the Register of Peers

The Register of Peers is central to the Australia Council's decision making processes. The role of the Register is to:

- provide access to the assessment process to a wide field of peers
- provide the opportunity for peers to contribute to the development of artform policy
- ensure a more flexible system of assessment by peers
- facilitate the choice of assessors who are experts in their artform for the assessment of specific applications.

The composition of the Register of Peers aims to reflect Australia's demography in terms of geographical location, age, gender and ethnic background. Steps are taken to actively recruit in those areas where the register does not reflect current demographic trends or requisite artform and genre expertise.

How the Register works

The Register of Peers database contains the names of *all* those who submit a completed registration form and fit within the Council's definition of a peer.

Peers who have acted as participating advisers or external assessors remain indefinitely on the Register. After three years peers will be sent a letter asking them whether they wish to remain on the register and, if so, to update their details. The names of peers who are not selected for use will be removed from the database after six years.

Peers may serve as participating advisers at a grant assessment meeting only once per board or committee during a one-year period. The boards may re-use peers for purposes other than grant assessment and there is no limit to the amount of times a peer may be used as external assessors.

Peers may go on to serve on a board or committee after being on the Register.

Benefits of being on the Register of Peers

There are a range of benefits to peers from serving on the Register and these include the opportunity to:

- participate in the Australia Council's activities
- gain a greater understanding of the grant assessment process
- provide input into artform policy formulation
- contribute to the development of the Council's practices and procedures.

Peers may choose to keep in touch with the Council's activities through the web site www.ozco.gov.au.

Peers are invited to attend when public meetings or functions are held within their region.

Registration of interest in board and committee membership

The *Australia Council Act 1975* (the Act) requires that the boards advertise and maintain lists of people who are interested in being appointed as members of the Council's artform boards. The Council draws on these lists when making recommendations to the Federal Minister for the Arts on filling board vacancies.

The Council also draws on this list when selecting peers for membership of committees.

The same registration form is used for expressions of interest in board and committee membership and to join the Register of Peers.

If you have not done so already and would like to register your interest in being nominated for board or committee membership please visit our website at <www.ozco.gov.au>, email mail@ozco.gov.au, or call 02 9215 9000 or toll free 1800 226 912.

2. BACKGROUND TO THE AUSTRALIA COUNCIL – ITS FUNCTIONS AND OBJECTIVES

The Australia Council – functions and objectives

The Australia Council is a statutory authority established under the *Australia Council Act 1975*. The Council is subject to the terms of this Act as well as those of the *Commonwealth Authorities and Companies Act 1997*. The Australia Council delivers cultural benefits to the community at large by direct and indirect support for artists and arts organisations, as well as by policy leadership, research and independent advocacy.

The Australia Council's functions are set out in Section 5 of the Act and are to:

- (a) formulate and carry out policies designed:
 - i. to promote excellence in the arts
 - ii. to provide, and encourage the provision of, opportunities for people to practise the arts
 - iii. to promote the appreciation, understanding and enjoyment of the arts
 - iv. to promote the general application of the arts in the community
 - v. to foster the expression of a national identity by means of the arts
 - vi. to uphold and promote the right of people to freedom in the practice of the arts
 - vii. to promote the knowledge and appreciation of Australian arts by persons in other countries
 - viii. to promote incentives for, and recognition of, achievement in the practice of the arts
 - ix. to encourage support of the arts by States, local governing bodies and other persons and organisations.
- (c) furnish advice to the Government of the Commonwealth either of its own motion or upon request made to it by the Minister, on matters connected with the promotion of the arts or otherwise relating to the performance of its functions; and
- (d) do anything incidental or conducive to the performance of any of the foregoing functions.

As this section of the Act clearly implies, there is a strong connection between arts funding and policy formulation in the Council's operations.

Organisational chart



The Council: the governing body

The governing body of the Australia Council is responsible for the overall corporate governance of the organisation. This includes the determination of priorities and the policy and budgetary framework within which the Council and its boards, committees and panels operate. The Council is also responsible for monitoring achievement of these priorities and policy within its budgetary framework.

In accordance with the terms of the Act, the governing Council has between 10 and 14 members, including the chair. The chair is appointed by the Governor-General on the advice of the Minister for the Arts.

Members of Council and its boards, with the exception of the Chief Executive Officer, are part-time public office-holders appointed by the Minister. Terms of appointment are generally three years although the Act provides for terms of appointment of up to four years. Members are appointed with a view to achieving a balance of relevant expertise in the arts, skills in corporate governance and administration, along with regional, gender, ethnic and Indigenous community representation.

Under Section 7 of the Act, the Council may delegate any of its functions and any of its powers (other than the power of delegation or the power to appoint committees) to:

- a board (currently Aboriginal and Torres Strait Islander, Dance, Literature, Major Performing Arts, Music, Theatre and Visual Arts),
- the chair of Council.
- the deputy chair of Council
- a Committee
- the Chief Executive Officer; or
- an officer or employee (currently to those senior officers identified in the Financial and Administrative delegation)

These delegated powers are primarily to make grants within budgetary and policy constraints.

The Australian Government approves a triennial appropriation to the Australia Council to support its arts funding activities and related administrative expenses. In turn, the Council allocates funds annually among its boards and divisions and central Council administrative (Corporate and Financial Services) functions.

The role of the Council

Corporate Governance

The role of the Council is to provide strategic governance and policy direction. Its goal is to add value by working constructively with management on these tasks, contributing to organisational development, succession planning and resource allocation, including budget issues.

Each member of the Council has a responsibility to represent the Council's overall interests, not a sectional interest or a specific board point of view.

The Council's role in relation to policy

The Council's role in relation to policy is to:

- advise government on arts policy or other policies affecting the arts
- identify and set goals, directions and strategies as part of the Corporate Plan
- develop, approve and monitor all policies and programs across the Council
- consult with boards, committees and advisory bodies and other relevant stakeholders on across-Council policies and programs
- evaluate and review policies and programs
- approve general eligibility and selection criteria for grant categories.

The Council's role in relation to the budget

The Council's role in relation to budgetary matters is to:

- determine budget allocations for the Council (including boards, committees and panels)
- monitor overall expenditure against objectives and report to Government.

The Council's role in relation to nominations for board membership

The Council's role in relation to nominations for board membership is to determine who should be nominated for consideration by the Minister for membership of boards (on advice from the boards).

The Council's role in relation to nominations for committee membership

The Council's role in relation to nominations for committee membership is to appoint members to committees.

The role of the boards

Corporate Governance

The boards provide advice to the Council on the development of arts policy and grant programs and are the principal arts funding decision-makers of the Council.

The boards are established by the Minister for the Arts under s20 of the Act on the recommendation of the Council and function within the framework of the Council's Corporate Plan and related policies and budget allocations. Under the Act, the boards must consist of a chair and not fewer than four, nor more than eight, other members. Most boards have seven members including a chair. Exceptions are the Aboriginal and Torres Strait Islander Arts Board which has nine members, including a chair, and the Major Performing Arts Board which has eight members. Board chairs are members of Council.

Under the terms of the Act, the majority of board members, and Councillors, are practising artists or people otherwise associated with the arts. At least one member of each board must be a community interest representative. Grant decisions are made by boards, assisted by the expert advice of peers drawn from the Register.

Arts support grant categories (with specified application closing dates) are advertised in the press and explained in the Council's annual *Grant Seeker's Guides*.

Delegated powers of the boards

The Council has delegated to the boards the following powers:

1. To make grants and loans of money and to provide scholarships or other benefits on such conditions as it sees fit.
2. To manage buildings or facilities or assets.
3. To administer such gifts, devises or bequests as specified by the Council.
4. To cooperate with the states and local governing bodies and other persons and organisations concerned with the arts.
5. To do anything incidental to 1, 2, 3 and 4 above.

These delegations are subject to conditions and guidelines which are reproduced in the Council's Members Manual and in the Annual Report:

The role of the boards in relation to policy

The role of the boards in relation to policy is to:

- implement Council-wide policies through assessment criteria
- provide advice to the Council on the development of its policies
- provide advice on general eligibility and selection criteria for grant categories
- develop artform-specific eligibility and selection criteria for endorsement by the Council
- develop and monitor artform-specific strategies to implement the Council's policies and report on these to Council
- select peers (from the Register of Peers) to assist in these processes who have the relevant expertise and experience to make a fair and informed assessment of artistic work and grant applications.

The role of the boards in relation to the budget

The role of the boards in relation to the budget is to monitor grant category allocations and report back to the Council.

The role of the boards in relation to grant assessment

The boards are required to:

- assess applications and make grant funding-decisions under funding categories against published assessment criteria, assisted by peers with relevant expertise selected from the Register of Peers. Boards must do this within their delegated powers, conditions and guidelines.
- devise and implement funding strategies, which supplement the grant category framework to achieve specific outcomes.

The role of the boards in relation to board nominations

The boards' role in relation to board membership is to provide nominations to the Minister via the Council.

Committees

Council committees are established under Section 17A(1) of the Act. Committees may be delegated with decision-making powers like boards or have an advisory role only.

Currently the following committees have been delegated with funding decision-making powers:

- Decisions Review Committee
- Donations Fund Committee

- Interim Community Cultural Development Committee
- Community Partnerships Committee.

However, the following committees have not been delegated with powers and are advisory bodies only:

- Audit Committee
- Australia Council Multicultural Advisory Committee (ACMAC)
- Finance Committee
- Nominations and Governance Committee.

Other Council advisory bodies (including assessment panels)

From time to time the Council establishes advisory bodies to assist in its decision and policy-making functions.

The Inter-Arts Panel is an example of an assessment panel. Assessment panels comprise peers who make funding recommendations to an executive director or director responsible for the relevant funding program.

Council administrative structure

The Council organisation comprises the office of the CEO and eight divisions:

- Aboriginal and Torres Strait Islander Arts
- Arts Development (which includes five artform board sections, the Inter Arts Office, and Key Organisations and Operations sections)
- Artsupport Australia
- Community Partnerships and Market Development
- Corporate Resources
- Major Performing Arts
- Marketing and Communication

The **CEO** is responsible to the Council for the conduct of its affairs and, in conjunction with the Council Chair, liaises with the Minister concerning government arts policies and the Council's budget, statutory powers and functions. The CEO also liaises with the Department of Communications, Information Technology and the Arts (DCITA) concerning government arts policies. The CEO is supported by the Council Secretariat which prepares and minutes the meetings of the Council and coordinates requests from DCITA and ministerial requests for information.

Aboriginal and Torres Strait Islander Arts (ATSIA) services the Aboriginal and Torres Strait Islander Arts Board which is the leading authority for Indigenous arts. The division manages the established grant assessment process, together with devising strategies and policies to assist Indigenous artform development.

Arts Development contains all the sections servicing the boards with the exception of Aboriginal and Torres Strait Islander Arts and Major Performing Arts. Arts Development manages the grant assessment process advertised in the Council's annual *Grant Seeker's Guides*, together with devising strategies and policies to assist artform development. The division also includes the Inter-Arts Office that supports hybrid and multi-art practice through a single grants category. The Inter-Arts Office maintains an overview of new

media funding across the Council. The Key Organisations section is responsible for managing Council's relationships with the triennially funded arts organisations and analysis of each company's operations. The Operations section provides support to the division, and other areas of Council, by facilitating uniform application processing and overseeing the grants management system.

Artsupport Australia, a joint initiative with the Australia Business Arts Foundation, manages a range of initiatives designed to facilitate philanthropy to the arts in Australia. The Australia Council Donations Fund allows the Australia Council to receive tax deductible donations for the fulfillment of the Council's mission to enrich our nation by supporting and promoting the practice and enjoyment of the arts.

Community Partnerships and Market Development (CPMD) is responsible for the Council's work in the areas of community cultural and market development, arts marketing skills development, and international marketing and promotion. The Division's activities are strategic and developmental. They include programs and projects initiated and managed by the division, or undertaken through alliances with a range of partners, including the boards, arts industry associations and other key arts organisations, state and territory arts support agencies, other Australian Government departments or agencies, and the business sector. In its development and decision-making processes, CPMD draws on the expertise of the Council and the boards, the Register of Peers and arts industry specialists.

CPMD and the Inter-Arts Office (IAO) do not administer established grant programs based on the model managed by the Arts Development Division and Aboriginal and Torres Strait Islander Arts, and therefore do not work with a board of peers that oversees all their activities. However CPMD and IAO do work with peer bodies, and they liaise and coordinate Council-wide policies and strategies with the boards. CPMD and IAO commit and approves expenditure in relation to activities and strategic initiatives in compliance with a budgetary framework previously approved by the Council. The CPMD, which uses assessment committees delegated with funding decision-making powers and advisory assessment panels, reports to each meeting of the Council on its activities and strategic initiatives. The IAO, which uses advisory assessment panels, reports through the executive director Arts Development to each meeting of the Council on its activities and strategic initiatives.

Corporate Resources provides services and expertise for the Council's human resources, financial services, governance and legal compliance, information technology and office services functions.

Major Performing Arts aims to ensure that Australia has an artistically vibrant, financially viable and broadly accessible major performing arts sector. The Major Performing Arts Board (MPAB) has responsibility for oversight of the operations of 29 performing arts companies throughout Australia, as joint and equal partners with State Government funding agencies, as agreed by the Cultural Ministers Council (CMC). Under the CMC agreement the MPAB's grants process and formally delegated powers are different to those of the Arts Development boards, in that the MPAB companies do not make formal applications for funding. They are funded by the Australian and relevant State Governments at CMC-agreed levels on a rolling triennial basis, conditional upon their ongoing ability to meet MPAB delegation and categorisation criteria.

Marketing and Communication is responsible for positioning and profiling the Council and manages a broad range of publishing and public relations activities, including liaison with government, arts organisations and the public. It promotes funding programs, policies and initiatives via public relations, media campaigns, events, and Internet and print publishing. It also supports the Council with strategic communication advice. The division includes online services and the Council's library.

3. THE DECISION-MAKING FRAMEWORK

Arm's length funding and peer-group decision making

The Australia Council operates on two interrelated principles: the 'arm's length' principle; and the 'peer-group assessment and decision-making' principle.

The **arm's length principle** refers to the principle of the Council's independence from government. Decisions about specific grants are made at an appropriate distance from political processes.

The arms length funding principle goes hand-in-hand with that of **peer-group assessment and decision-making**. The Council, its boards, committees, assessment panels and advisory bodies form an independent organisation comprising people with relevant knowledge or experience for deciding how arts support should be given. They are the peers of the applicants and therefore the people best placed to make decisions on grants and on directions for the arts.

The Act provides that a majority of Council and board members are practising artists or artworkers who have practised in the arts. This means that board, committee and panel members they have first-hand knowledge of the arts. Members who are not practising artists, but who have expertise in areas identified as relevant to Council's priorities, also participate in assessing applications and policy decisions.

Notwithstanding the arms length relationship of the Australia Council and the Australian Government, it is customary for the Minister, when advising on the parliamentary appropriation for the year, to indicate the Government's broad arts policy guidelines which it expects the Council to consider when discharging its powers and functions. However, under the Act, the Minister may not give direction to the Council in relation to the making of a decision relating to the making of a grant.

Rights and Responsibilities

In accordance with the Act, the Council upholds the right of people to freedom in the practice of the arts. In doing so, the Australia Council provides grant support to a large number of individuals, groups and organisations working in and with a range of communities.

Australia Council support does not imply or determine that the Council endorses the views of the artists or participants involved in funded activity. Australia Council grant recipients are required to comply with all applicable laws and their activity should not have the effect of bringing Council into disrepute.

Public accountability and the duty to act in good faith

Decisions made by public officials are subject to principles of procedural fairness and must be based on sound reasons. By law, public office holders (Councillors and board members) and other peers (committee and panel members), and the Council's staff, are accountable for their actions and decisions.

Avenues for reviewing Council decisions (including board, committee and senior officer's funding decisions) include: the Ombudsman; the Administrative Appeals Tribunal; the Federal Court; the High Court; the Human Rights and Equal Opportunity Commission; and the Merit Protection and Review Agency.

Relevant legislation includes:

- Administrative Decisions (Judicial Review) Act
- Freedom of Information Act
- Sex Discrimination Act
- Ombudsman Act.

The responsibilities of decision-makers include:

- Observation of appropriate legal requirements – before making a decision a member is obliged to ensure that they have the authority to do so and that they have followed established procedures.
- Establishing the facts – ensure that evidence supporting the decision is both sufficient and correct and that any pre-conditions have been met, including considering the information and required support material submitted by applicants for funding.
- Avoiding any improper exercise of authority – not taking irrelevant considerations into account or not having regard to the merits of a particular case.
- A personal obligation to maintain a high standard of conduct - in discharging their responsibilities peers have a duty to avoid any conflict of interest that might be regarded as discreditable.
- Fairness – avoid acting in a way which is unreasonable, unjust, oppressive or discriminatory.

Duty of care and diligence

Peers should be aware that they have a 'duty of care' to avoid causing harm or injury to others when communicating with applicants and members of the public on matters relating to their involvement with Council.

The Council may be financially liable for losses sustained by applicants who act on incorrect advice given by peers. Peers should therefore refer details or applicant-specific matters to relevant Council staff to provide advice.

Decisions Review Process

The Council maintains an internal decisions review process oversaw by the Decisions Review Committee (DRC). Applicants who believe their application has not been assessed fairly are able to request a review of the decision-making processes concerned. The Australia Council's annual *Grant Seeker's Guides* outline five grounds which applicants can claim to commence a decisions review process. The DRC committee hears these requests. When the DRC upholds a request it returns the application concerned to the original decision-making body to be re-assessed properly. Please note: the DRC process is about the process of decision-making only. The DRC process does not inquire into the artistic merits of applications or decisions.

Applicants who are aggrieved by an Australia Council decision are also entitled under Section 13 of the *Administrative Decisions (Judicial Review) Act* to request a written

statement in regard to that decision. This statement documents the reasons for the decision and gives details of material and other evidence upon which it was made. Apart from the fact that decisions must be well-based, this means that written records of the decision-making process must be adequately and accurately maintained.

In some circumstances applicants may take legal action against Council with respect to decisions about grant applications, but only on the basis of the decision-making process and not on issues to do with the artistic merit of decisions.

Anti-discrimination legislation

By law, the Australian Government affords equal opportunity to all eligible applicants and prohibits discrimination against any applicant because of political affiliation, religion, gender, class, ethnicity, sexual preference, marital status, pregnancy, age, physical or mental disability. The Australia Council has an Access and Equity Plan and an Arts and Disability Action Plan to ensure equitable access to the Council and its funding programs.

Delegation of powers

The Act provides for the Council to delegate certain of its powers and functions (see section 2, for details of the Council's powers to delegate). Because each artform is different and because the problems and prospects in each vary, boards and committees are given a high level of independence in matters of artistic judgment and priority.

Under Section 7 of the Act, the Council has also delegated power to senior officers to make funding decisions in certain limited circumstances. Council, or an appropriate board must receive, at its next meeting, a report of all funding decisions made by senior officers under their delegated authorities.

4. MEETING PROCEDURES

Board Meetings – legislative requirements

The *Australia Council Act* specifies (in section 29) that:

- boards hold such meetings as are necessary for the performance of their functions
- board meetings are convened by the chair of the board
- the Council may request the chair of a board to convene a meeting of the board
- a quorum is constituted by a majority of the members of the board, for the time being holding office
- the chair will preside at all board meetings at which he or she is present
- if the chair is not present at a meeting, the members present should elect one of their number to preside at the meeting
- questions arising at a meeting are determined by a majority of the votes of the members present and voting
- the person presiding at the meeting has a deliberative vote and, in the event of a equality of votes, also has a casting vote
- meetings may be held by:
 - telephone
 - closed circuit television
 - another method of communication determined by the Board.

The Act does prescribe some specific rules for meetings, concerning chairs, quorums etc., and members are expected to follow the Council's usual meeting procedures, especially when assessing applications.

Meeting Procedures

Before the meeting

An agenda is circulated containing applications, required support material and other pertinent information about each item to allow sufficient time for consideration prior to each meeting.

At the meeting

The role of the chair is to facilitate the decision-making process and specifically to:

- interpret and clarify
- move the discussion forward
- bring discussion to a resolution so that everyone understands and accepts it as being the will of the meeting, even if individuals do not necessarily agree with it
- identify any conflicts of interest and ensure that these are documented in the minutes and ensure appropriate action is undertaken to resolve these conflicts
- verify - at each meeting - that the minutes of the previous meeting are an accurate record of the previous meeting's proceedings
- conduct proceedings in accordance with the powers the Council has delegated to each board or committee and their conditions and guidelines and Council policies and procedures; to take care that the sense of the meeting is clear with regard to any issue or question before it; to preserve order and to give all present a reasonable opportunity

- to speak or vote; and to be satisfied that the minutes as drafted are an accurate, objective record of the proceedings
- allow that motions and amendments should be proposed and seconded, but it is not essential to have either
 - conduct voting procedures so that:
 - resolutions are passed by a majority of members present and voting
 - The chair declares when a motion is carried by the requisite majority.
 - The chair has a deliberative vote and also a casting vote in the event of an equality of votes for and against.
 - An individual may request to be recorded as abstaining, voting against a motion, or as objecting to the outcome.
 - sign a record with the senior staff member responsible for the meeting of all financial decisions made at the end of each meeting.

No board, committee or panel should hold in-camera sessions, and may only hold sessions without staff if a director or executive officer is in attendance.

Staff of the Australia Council

The majority of staff of the Australia Council are appointed as permanent officers or engaged as fixed-term employees under section 41 of the Act. Their terms and conditions of employment are determined from time to time by the Council and through collective bargaining with staff pursuant to the *Workplace Relations Act 1996*.

Generally, only members of the Council, its boards and committees vote on funding decisions. While staff advise and serve the Council, boards, committees, panels and advisory bodies, no member of staff, including members of senior management, has a vote on these matters, except for the Chief Executive Officer, who as a member of the Council, has a vote at Council meetings.

However, in the interests of smooth administration, certain senior officers have been delegated with powers to approve grant expenditure in certain circumstances, after consultation with peers. These delegated powers are limited and have to be reported to Council or board meetings immediately after they are exercised.

5. ROLE OF THE REGISTER OF PEERS

Background to the Register of Peers

The Register of Peers plays an integral advisory role in providing advice on grants assessment and policy development. Advertisements were first placed for expressions of interest in joining the register in December 1995. There are currently over 870 peers listed on the register.

The role of peers from the Register in decision-making

Generally, under the terms of the Act only members of the boards and of committees, which have been delegated decision-making power, may make funding decisions. Peers from the register are appointed by the boards and committees to assist them undertake their work and as a consequence are not formal members of these bodies and cannot make decisions.

Peers assist the boards and committees through the provision of expert advice and recommendations. They may participate in meeting discussions.

Use of the register to assist in grant assessment and policy development meetings

Peers with relevant expertise are selected to assist in assessment and policy meetings. Expertise may relate to national standing in a particular artform, or genre or practice (e.g. new media art, young adult literature, puppetry) or to relevant knowledge of a particular community (because of geographic location, personal background or a particular interest, for instance).

At all assessment meetings, the chair will outline at the beginning of the meeting, the roles and responsibilities of members and participating advisers (peers from the Register) as well as the decision making process to be followed at the meeting.

See Section 4 for further details of board meeting procedures.

Use of the Register of Peers for external assessments

Peers from the register may be called on to provide expert advice on one or more grant applications outside formal grant assessment meetings. Peers who undertake work in this capacity are called external advisors. External advisors work in isolation from other assessors and the advice they prepare is submitted to a board or committee as background information to assist in decision-making.

Some examples of the uses for external advisors are:

- assessment of scripts
- attendance at performances
- translation and assessment of applications in languages other than English
- assessments of artistic merit in relation to the community from which the application derives.

Use of the Register of Peers to provide regional or community-based advice

Peers from the register from particular regions or community groups may be called on to provide advice on specific issues. This advice may be sought through forums or correspondence by post, telephone or electronically. Peers may also be invited to attend public meetings or functions which are to be held within their region.

Selection and use of peers for the provision of regional or community advice will be an informal arrangement with all peers who live with a particular region or belonging to a particular community group being invited to participate.

Participation by peers in this process is voluntary and not paid.

6. SELECTION AND RESPONSIBILITIES

Basis of selection

Peers are selected from the Register of Peers on the basis of best match of expertise and experience with the expertise required for the task at hand.

Staff at the Australia Council search the Register of Peers database for people whose expertise fits that required by the board, committee or panel. When peers with relevant expertise are not available from the register, board and Council members and staff use their knowledge of the artform, or that of relevant industry bodies, to find suitably qualified people to join the register.

The final selection of the peers assisting at assessment meetings is made by the board or committee director in consultation with the chair. In the case of peers used to provide external assessment the director of the relevant section will make the final selection.

Duties and responsibilities

Peers from the register are responsible for making recommendations on grant assessment and providing advice on policy formulation.

Peers are expected to:

- keep abreast of relevant policy and arts issues
- read all agenda papers and participate in meetings.

Once a board or committee has made a decision, peers who have been assisting at the meeting are obliged to uphold that decision, irrespective of their personal views. The confidentiality provisions in their contracts also oblige peers who have participated in panels not to dissent if a recommendation made by a panel is not adopted by a senior officer with an authority to make a funding-decision. For further information on the duties and obligations of peers see page 12.

Number of times peers may be used

Peers may be used as participating advisors once per board, committee or panel during a one-year period but may be used an unlimited number of times for purposes other than participation in grant assessment meetings.

Public availability of names of peers

The names of peers who have assisted a board, committee or panel are recorded in Assessment Meeting Reports and the Council's Annual Report. The names of peers on the Register of Peers database are not made public nor are the names of peers called on to provide in-the-field assessments.

7. CODE OF CONDUCT

Confidentiality and the disclosure of Council business

Under the terms of a peer's contract for services with the Council, a peer may not disclose any confidential information about the government, Council, its boards, committees or panels that comes into their possession.

Peers may not make public any document or information which is obtained through their appointment to the register. Certain documents of the Council are available to members of the public under the *Freedom of Information Act 1982*. Only the Council's delegated FOI officers have the authority to provide information and/or documents under this Act.

Use, retention and disposal of agenda and minutes, and related papers of meetings

a) Ownership

Agenda and minutes of meetings of the Council, boards, committees, panels and any other meetings are defined in the *Archives Act 1983* as 'Commonwealth records'. This means that while the documents are for the use of members of the Council or a board, committee, or advisory body, they belong to the Australian Government.

Agendas and minutes should be treated at all times as confidential information. This information should not be discussed with anyone beyond Council staff, members of the board or other peers attending the meeting.

b) Procedures

Agenda and minutes should be returned to the secretary (of the meeting) at the end of the relevant meeting. The Australia Council will dispose of these documents in accordance with the relevant Records Disposal Authority.

c) Personal Notes

Notes made during meetings, or associated with meetings are personal papers, and members may dispose of them in whatever way they consider appropriate, as long as the privacy of other individuals and the confidentiality of information is protected.

Code of conduct

Ethical conduct is an attitude of mind, requiring observance of unwritten conventions and protocols in addition to compliance with rules of conduct. Peers are required to adhere to the following principles of ethical conduct:

a) Integrity

Peers should be honest and sincere in their approach to their duties and responsibilities. Peers should not take improper advantage of their position or any official information they may receive as part of their duties whilst on the register. Peers should perform the tasks allocated to them during their term on the Register of Peers in a professional and timely manner, and adhere to the Council's policies and directions as they relate to these tasks.

b) Objectivity

Peers must be fair and impartial and must not allow prejudice or bias to override their objectivity.

c) Independence

Peers should be and *appear to be* free of any interest that might be regarded, whatever its actual effect, as being incompatible with integrity and objectivity.

Peers should not use their position as a means to promote the particular interests of any group with which they are associated.

d) Confidentiality

Peers should respect the confidentiality of information provided to them as part of the grant assessment process or other Australia Council business.

All information given to peers by the Australia Council is confidential. Peers may not disclose or make public any information or material acquired or produced in connection with tasks they are required to undertake whilst on the register.

Under no circumstances may peers release details of their work for the Council to the media or give media interview about their work before, during or after it has been completed.

Peers are required to return to the Australia Council any material given to them as part of the tasks they have been selected to undertake or which they have created as part of these tasks. This material may cover working papers and reports, grant applications, assessment reports and agenda papers for meetings.

Peers are required to take all reasonable measures to ensure that information relating to applicants for Australia Council funding held in connection with tasks undertaken as a peer on the register is protected against loss, unauthorised access, use modification, disclosure or other misuse. Peers are obliged to ensure that this information is used only for the purposes of fulfilling their obligations as outlined in their contract for services with the Council.

Conflicts of interest

Peers have a personal obligation to maintain a high standard of conduct. In discharging their responsibilities, peers have a duty to avoid any conflict of interest that might be regarded as discreditable.

Conflicts of interest may be actual or perceived and may relate to either financial (pecuniary) interest or personal bias; that is, where a peer has a personal interest other than a financial interest in a matter.

An **actual conflict of interest** exists when there is a reasonable likelihood of a financial benefit, either direct or indirect, or a personal benefit to a Council, board, committee or advisory assessment panel member. A benefit will not constitute a conflict of interest if its connection with the matter under consideration is remote or speculative.

A **perceived conflict of interest** exists where a member of the public who has a familiarity with the purpose and work of the Australia Council and the constraints under which it operates might reasonably assume that there was a conflict, even if there was not, e.g. an application from or involving a family member or from an organisation related in some way to, the member.

It is important to note that only when *a member of the peer body making the grant decision is also the beneficiary* does an actual conflict of interest arise. A conflict does not exist if, for example, a board, committee or panel member is a beneficiary of a matter being considered by another board, committee or panel.

The Council has adopted an Eligibility for Assessment policy for board and committee members, as follows:

No applications are eligible for assessment where a member of the peer body making the grant decision is also the applicant, or is the sole or major beneficiary through a third party.

Applications from panel members making recommendations to grant decision makers are subject to the Eligibility for Assessment policy.

Peers are not eligible for selection to assist as participating advisers in grant assessment meetings which cover programs in which they are an applicant or the sole or major beneficiary through a third party.

Peers cannot be used to provide in-the-field assessments on applications in grant programs in which they themselves have placed applications.

As a general rule, a minor beneficiary is one who will receive not more than 20 per cent of the funds requested for grants under \$50,000. This guideline is in place to avoid any public perceptions of what may appear to be a conflict of interest. It is also to protect peers by ensuring that their professional credibility and ethical conduct cannot be brought into question.

For those cases where a board, committee or panel member is a minor beneficiary through an application by a third party, or where there is a perceived conflict of interest, action will be taken on a case-by-case basis depending on the context and nature of the conflict.

Where there is a perceived conflict of interest, peers will be required to leave the meeting and not participate in the discussion and assessment of the relevant application.

In their contract for services with the Australia Council peers warrant that no conflict of interest exists or is likely to arise in the performance of their services. Should a conflict or risk of a conflict of interest arise before, or during the performance of their services, a peer must notify their contact officer immediately of that conflict or risk. Peers must abide by any agreed plan of management to manage a conflict of interest.

Peers cannot be used to provide in-the-field assessments on applications in grant programs in which they themselves have placed applications.

Peers with unsatisfactory grant acquittals

Grant recipients who have failed to satisfactorily acquit a grant from the Council are **not eligible** for further grants or for further payments on any existing grants until all previous grants are acquitted. Failure to satisfactorily acquit a grant also conflicts with a peer's personal obligation to avoid any conduct that might be regarded as discreditable.

There are three areas of concern:

- a) Committee or panel members who fail to acquit a grant during their course of their contract for service.
- b) Nomination of peers as committee or panel members or participating advisers who have unsatisfactorily acquitted grants.
- c) Participating advisers who fail to acquit grants during the course of their contract.

Each of these areas is dealt with in more detail below.

- a) In the event of committee or panel members failing to acquit a grant during the course of their contract for service, the following will occur:
 - Divisional and board directors monitor acquittals due and remind any peer when they have a grant due for acquittal (i.e. 13 weeks from the end date of the grant project).
 - Divisional and board directors will bring to the CEO's attention any peer who has not submitted an acquittal by 20 weeks after the end date of their project.
 - The CEO will write reminding the peer of their requirement to maintain a high standard of conduct—and seeking their plan to redress the situation.
 - Under the Council's Acquittals Policy no further payments can be made to a peer with an unsatisfactory acquittal (i.e. a satisfactory acquittal has not been received within 20 weeks of the end date of the peer's project)
 - Peers who do not attempt to redress unsatisfactory acquittals may have their services terminated.
- b) To prevent peers who have unsatisfactory acquittals being nominated for committee membership or being selected to act as participating advisers on assessment panels, boards or committees:
 - The Nominations Committee will not endorse nominations for committee membership for people who have unsatisfactory acquittals.
 - Senior staff will not select peers with unsatisfactory acquittals as members of panels or participating advisers at board or committee meetings.
- c) For participating advisers who fail to acquit a grant during their contract:
 - Under the terms of a peer's contract for services, no payment can be made to a peer who has not satisfactorily acquitted an Australia Council grant. Peers who do not attempt to redress unsatisfactory acquittals may have their services terminated.

8. COUNCIL/BOARD/ GOVERNMENT RELATIONS

Relations between the Council and the boards and committees

The Act provides that the Council may delegate powers and functions to boards and committees. (see section 2 for further information on the Council's power to delegate its powers and functions). However, the Council retains a power to direct boards and committees with respect to the exercise of their delegated powers and functions.

In practice, boards and committees have a very high level of independence, particularly in matters of artistic judgment and priority. The independence of boards and committees is dependent upon:

- responsible and fair artistic judgements and transaction of business
- clear and coherent explanation and defence of Council policies
- contribution to regular reviews of Council policies, and taking the necessary subsequent action
- responsible responses to directions and requests for information and advice from the Council.

The Council is responsible for ensuring that there are no unjustifiable inconsistencies in the degree of financial support given by the boards and committees to similar activities.

The Council has a responsibility to act as a forum of review and appeal in major controversies affecting the boards, committees and panels. This role is essential to the independence of the boards and committees and of the Council itself.

The Council's annual allocation of funds to each board and committee is approved in the light of the needs of the arts as whole. This may place an individual board or committee chair in a difficult dilemma. However, a chair's prime responsibility is to the Council as a whole and not to a specific artform board.

There should be ongoing discussion and debate between Council and its boards and, committees through formal reports, in-person presentations, attendance of Council members at board meetings, and so on.

The Council turns to its boards and committees for advice on matters of policy relating to their specific artforms and constituencies; boards and committees normally have more detailed artform knowledge than the Council and can therefore act as a testing ground and point of contact for assessment of policies and implementation of objectives.

Where boards and committees are delegated by the Council with power to make decisions on grants, the Council cannot revoke or change a decision once it has been made and communicated to the applicant, nor can it attach additional conditions to a grant or change those set by a board or committee.

However, the Council does have the power to give directions to a board or committee regarding how decisions are made (Council rarely exercises this option). As an example, the Council could require a board to refer all proposed decisions on particular types of applications to the Council for approval.

The Council has delegated powers to the Council Chair and the Chief Executive Officer, after consultation with the board or committee chair or senior officer concerned, to rescind a funding decision, before it is communicated to an applicant, if the project concerned may breach any law or bring the Council into disrepute. The Council has also provided for an Appeals Committee to hear appeals from a decision to rescind a funding decision by the board, committee or senior officer concerned.

Public Relations

One of the principal objectives of the Australia Council is to strengthen and widen arts support in Australia - the Council's advocacy of various issues is a major element in this. To that end, the Council provides information about, and wherever necessary, explains its own activities, policies and services.

In the acknowledgment by all recipients of grants received, the name and logo of the Australian Government and the Australia Council must be prominent. The wording "*...is supported by the Australian Government through the Australia Council, its arts funding and advisory body*" must be used in prominent positions on any document produced with Council funding.

Media releases are generally issued following clearance by the Communications Manager, Chief Executive Officer and/or Council Chair, and spokespeople are identified to handle interviews with reporters.

Instructions are regularly circulated to staff that no public comment should be made nor media releases issued without going through the normal channels, i.e., the Communications section and the Chief Executive Officer. Communications staff are briefed to handle routine inquiries arising from public comment but some inquiries, particularly on controversial matters, are referred to the nominated spokesperson.

Under no circumstances may peers release details of the work they undertake for the Council to the media or give media interview on this work before, during or after these tasks have been completed.

9. REMUNERATION AND ENTITLEMENTS

Sitting fees and travelling allowances

Peers attending Council, board, committee, panel or advisory body meetings are entitled to be paid a daily sitting fee. Periods of business of less than three hours may be aggregated for the purpose of payment of a daily fee provided that:

- each individual period must be for a minimum of one hour
- no period on a day for which a daily fee is paid is recognised
- aggregated periods must total at least 5 hours
- preparation for formal meetings is not recognised
- eligibility for payment is certified by the chair.

Current rates for sitting fees and travelling allowances are set out in **Attachment I**.

Assessment fees

The current rates are set out in **Attachment II**.

Peers contract for services

Peers selected to act as a participating adviser or external assessor will be sent a contract for services. This contract will outline the nature of the services to be performed, when these are to be undertaken, the amount to be paid, and other terms of their engagement by Council. Peers will be sent a contract either by email or by mail and should mail or email their acceptance of the terms and conditions of the contract to the Australia Council.

Domestic travel

Council staff will usually make travel and accommodation arrangements for peers through the Council's designated travel agent. Other travel expenses may be authorised at approved daily rates.

Travel allowances for meals and incidentals can be paid in advance. However, these advances may need to be acquitted within seven days of return and generally before any further travel is undertaken.

Cabcharges

Cabcharges may be issued to peers for travel to attend meetings or events on behalf of the Australia Council.

When using Cabcharge vouchers it is vital that peers complete all details on the voucher. This is to prevent any fraudulent use after the Cabcharge voucher has been handed over and before it has been presented to the Council for payment.

All unused vouchers are to be returned immediately after the meeting or event to the relevant board Administrator. This is a precaution against possible loss and subsequent fraudulent use.

Any questions about the use of Cabcharge vouchers should be referred to the Manager, Finance and Services.

Payment method

Payment will be made upon:

- completion of the assessment and all the obligations under the contract;
- and the peer submitting to the Australia Council, an invoice for the assignment once completed.

If the peer is registered or required to be registered for GST in Australia they must submit an invoice that complies with the GST Act.

Payments and reimbursements are generally made by electronic funds transfer (EFT). An electronic funds transfer authority should be completed and returned to the Executive Assistant, Arts Development.

ATTACHMENT I: Remuneration rates for peers

The table below gives the remuneration rates for peers.

The rates outlined in the table below are effective from **1 July 2007**

Board members and committees	Sitting Fee (per day)		
	Meetings of 3 hours or more	Meetings of 2 to 3 hours	Meetings less than 2 hours
Members (including peers)	\$350	\$210	\$140
	Travelling Allowance		
Per overnight stay: Sydney	\$312		
Adelaide	\$268		
Brisbane	\$288		
Canberra	\$259		
Darwin	\$256		
Hobart	\$241		
Melbourne	\$285		
Perth	\$268		
Country Centres	\$194		

ATTACHMENT II: FEES AND ALLOWANCES FOR PEERS

The fees and allowances for assessors, readers and working party members are as follows (as at 1 July 2007):

Performance assessment fee

Current rate: \$84 per performance assessed

Plus

Cost of one ticket - if applicable, and/or reimbursement of travel cost - if distance involved.

Script assessment fee

Current rate: \$75 per written assessment per script

Readers' fees (for manuscripts and other written material)

Current rate: \$41 per hour, subject to a maximum of \$203 per manuscript