

**HEALTH ADVISORY COUNCILS —
APPLICATION OF GOVERNMENT FINANCIAL, PROCUREMENT & GOVERNANCE POLICIES**

Finance/Procurement policies & requirements (*incorporated HACs only*)

- The Health Care Act (HC Act) sets out a number of finance-related matters and requirements applicable to incorporated HACs:
 - ⇒ The powers of the incorporated HACs are set out in the Health Care Act (section 19) and their constitutions (clauses 5-7).
 - ⇒ The HACs must cause proper accounts to be kept of their financial affairs, must have financial statements prepared each financial year, and must have them audited at least annually by an auditor approved by the Auditor-General (section 21).
 - ⇒ The audited accounts must be incorporated into the HACs' annual reports delivered to the Minister.

- Incorporated HACs are public sector agencies and their members are 'corporate agency members' for the purposes of the Public Sector Management Act (PSM Act). The PSM Act imposes the following duties on the HACs & their members (s4, s6D, 6F):
 - ⇒ a duty to manage all resources effectively, prudently and in a fully accountable manner (s4(1)(d));
 - ⇒ a duty to exercise care and diligence;
 - ⇒ a duty not to be involved in unauthorised transactions with, or to have unauthorised interest in, an agency or subsidiary
 - ⇒ a duty not to have unauthorised interest in agency or subsidiary
 - ⇒ a duty to act honestly and duties with respect to conflict of interest (see below)HACs therefore ought to have appropriate processes, approvals and controls in place to ensure these obligations, including those of individual members, are met.

- A Memorandum of Administrative Arrangement between CHSAH & each HAC was drafted by the CSO in June 2008. The MOAA sets out a number of things that each party agreed to. Under the MOAA, HACs agreed to comply with Treasurer's Instructions (cl.1.7) and DH procurement policies (cl.4.1).

- HACs are "public authorities" under the State Procurement Act:

- ⇒ They are required to comply with State Procurement Board policies when undertaking procurement (the procuring, managing & disposing of goods & procuring and managing contracts for services);
 - ⇒ The policies are aimed at obtaining value for money when public money is spent, ensuring that participants in procurement processes are treated fairly, and ensuring accountability and transparency in procurement operations. They promote good procurement management practices while recognising differences in the complexity, risk and value of procurement proposals.
 - ⇒ The State Procurement Act 2004 established the State Procurement Board to oversee procurement operations for public authorities.
- HACs hold their assets for the benefit, purposes and use of CHSAH and the Minister on terms and conditions determined by the Minister (s18(3)(b) of the Health Care Act). Those Terms and Conditions principally arrange for CHSAH to be appointed as the managing agent of HAC land/premises, and impose duties on CHSAH when fulfilling this role.

Governance (*applicable to all HACs*)

- The Health Care Act (HC Act) sets out a number of governance issues and requirements applicable to the HACs:
 - ⇒ The functions of the HACs are set out in their individual constitutions and rules.
 - ⇒ HACs must deliver annual reports to the Minister, who tables them in Parliament (s22). The content and requirements of the report are set out in the PSM Act (ss6A, 6B, reg.18 of the PSM Regulations).
 - incorporated HACs – annual report must include the HAC’s audited accounts & financial statements (s22(2)).
 - unincorporated HACs – must also deliver an annual report (s22(4), applied by the model rules (clause 58 for most HACs).
- Members of unincorporated HACs are ‘advisory body members’ for the purposes of the Public Sector Management Act (PSM Act) and are bound by the duties outlined in Part 2 Division 4 of the PSM Act. Those duties, which also apply to members of incorporated HACs under Part 2 Division 3, include:
 - ⇒ Duty to act honestly
 - ⇒ Duties with respect to conflict of interest
- HACs are required to report to the Minister twice yearly in relation to conflict of interest situations, in accordance with the PSM Act.

- As part of the public sector, HACs and their members are required to comply with Premier & Cabinet Circulars. Premier and Cabinet Circulars are instructions issued by the Cabinet which generally provide direction on administrative matters for Government Agencies and authorities. These deal with a range of matters, not all of which are relevant to the operations of the HACs. Two relevant Circulars are:
 - ⇒ PC012: the “Information Privacy Principles Instruction”, which imposes requirements to keep personal information confidential.
 - ⇒ PC114, which applies only to incorporated HACs, and sets out processes for managing real property.
- HACs are “agencies” for the purposes of the Freedom of Information Act. This means that a member of the public can apply under the FOI Act for copies of the HACs’ documents.