



catholic education commission of victoria ltd
ACN 119 459 853

Financial Compliance Obligations Guide for **PARENTS AND FRIENDS ASSOCIATIONS**



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Purpose of Guide

This Financial and Compliance Obligations Guide captures the key financial compliance obligations applicable to Parents & Friends Associations (PFA) based on the structure of the specific PFA.

The varied nature and structure of PFAs can present a number of potential risks to members of the PFA, schools, parishes and the Catholic Education Commission Victoria Ltd (CECV), which may include:

- breaches of the rules of the association
- alleged improper management practices
- alleged theft or misuse of association funds or other criminal matters
- non-compliance with financial reporting and legislative requirements such as lodgement of annual statements or the requirements of the Australian Charities and Not-for-Profits Commission (ACNC).

As a result, the CECV has developed this guide to assist PFA's to understand and manage their financial compliance obligations through the provision of a decision framework and associated guidance. This guide acknowledges the varied structure of PFAs (school, parish or separately controlled) along with relevant financial and compliance requirements, and the potential benefits and risks (where applicable) for each structure.

The key requirements covered include:

- legal status
- Australian Business number (ABN)
- operating bank account requirement
- preparation of financial statements
- Australia Charities and Not-for-profits Commission (ACNC) compliance
- Australian Taxation Office (ATO) compliance.

This guide has been structured in the following sections:

- 1. PFA structure decision tree** – provides guidance to determine the most applicable structure of your PFA.
- 2. Financial and compliance obligations** – sets out the key financial and compliance obligations for each PFA structure. Refer to the sub-section relevant to your structure as follows:
 - 2a – Financial and compliance obligations for school controlled PFAs
 - 2b – Financial and compliance obligations for parish controlled PFAs
 - 2c – Financial and compliance obligations for independent PFAs.
- 3. Additional information by requirement** – provides additional information in relation to key obligations including links to sources where further information can be obtained.

This guide is to be treated as an overarching guide and any local diocese-specific policies may continue to take precedence.

1. PFA structure decision tree

The decision tree has been developed to assist PFAs to identify the current structure that they operate under based on the way the PFA is currently managed. Once the current PFA structure is determined, the subsequent sections will assist in determining the financial and compliance obligations that fall under each structure.

The decision tree will enable existing PFAs to identify, by a series of yes/no questions, which of the three PFA structures they align with:

- school controlled PFA
- parish controlled PFA
- independent PFA.

Once the structure has been determined, PFAs will need to understand the financial and compliance requirements provided in the subsequent decision flowcharts that are applicable to the PFA's structure:

- 2a – Financial and compliance obligations for school controlled PFAs
- 2b – Financial and compliance obligations for parish controlled PFAs
- 2c – Financial and compliance obligations for independent PFAs.

Interpretation of the decision tree

The first question that PFAs need to answer is **does the PFA have a separate ABN?** If a PFA currently holds an ABN that is different from the ABN of the school, it automatically means that they are an independent PFA. If the PFA operates under the ABN of the school, it does not exclude the possibility of being an independent PFA but a few more criteria items need to be satisfied to be considered independent. Additionally, if it is determined that the PFA is independent, they will be required to register for an ABN.

If the PFA does not hold a separate ABN **are the PFA's activities recorded in the school's accounts?** If the answer is yes, the PFA operates under the auspice of the school and is therefore considered to be a school controlled PFA.

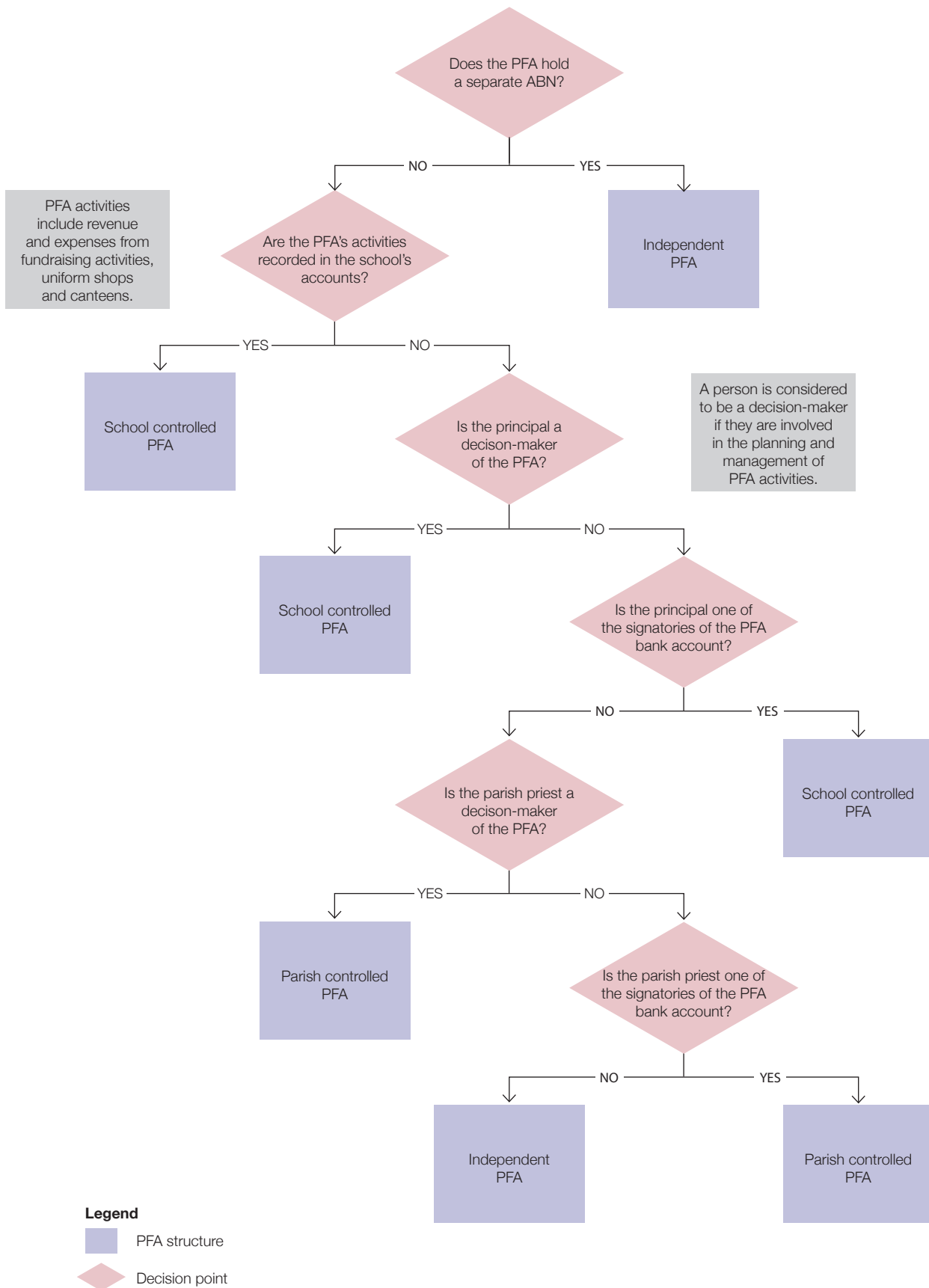
If the PFA's activities are not currently recorded in the school's accounts, **is the school principal a decision-maker and/or is a signatory on the PFA account?** If the principal is greatly involved (i.e. is a decision-maker, sits on the committee and/or influences the association's activities), the PFA would appear to be school controlled. If the principal is not involved but is a signatory of the PFA account, the PFA would also be considered to be school controlled and should follow the requirements for this type of structure.

If the PFA does not have a separate ABN, its activities are not recorded in the school's accounts, and the principal is not involved and is not a signatory, the PFA would not be considered to be school controlled and one of the other structures will apply.

If the PFA is not school controlled, you will need to determine if it is parish controlled. Similarly to the requirements for a school controlled PFA, a parish controlled PFA would be a PFA where the parish priest is greatly involved in the PFA and/or is a signatory of the PFA's account.

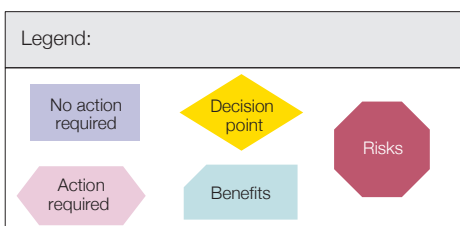
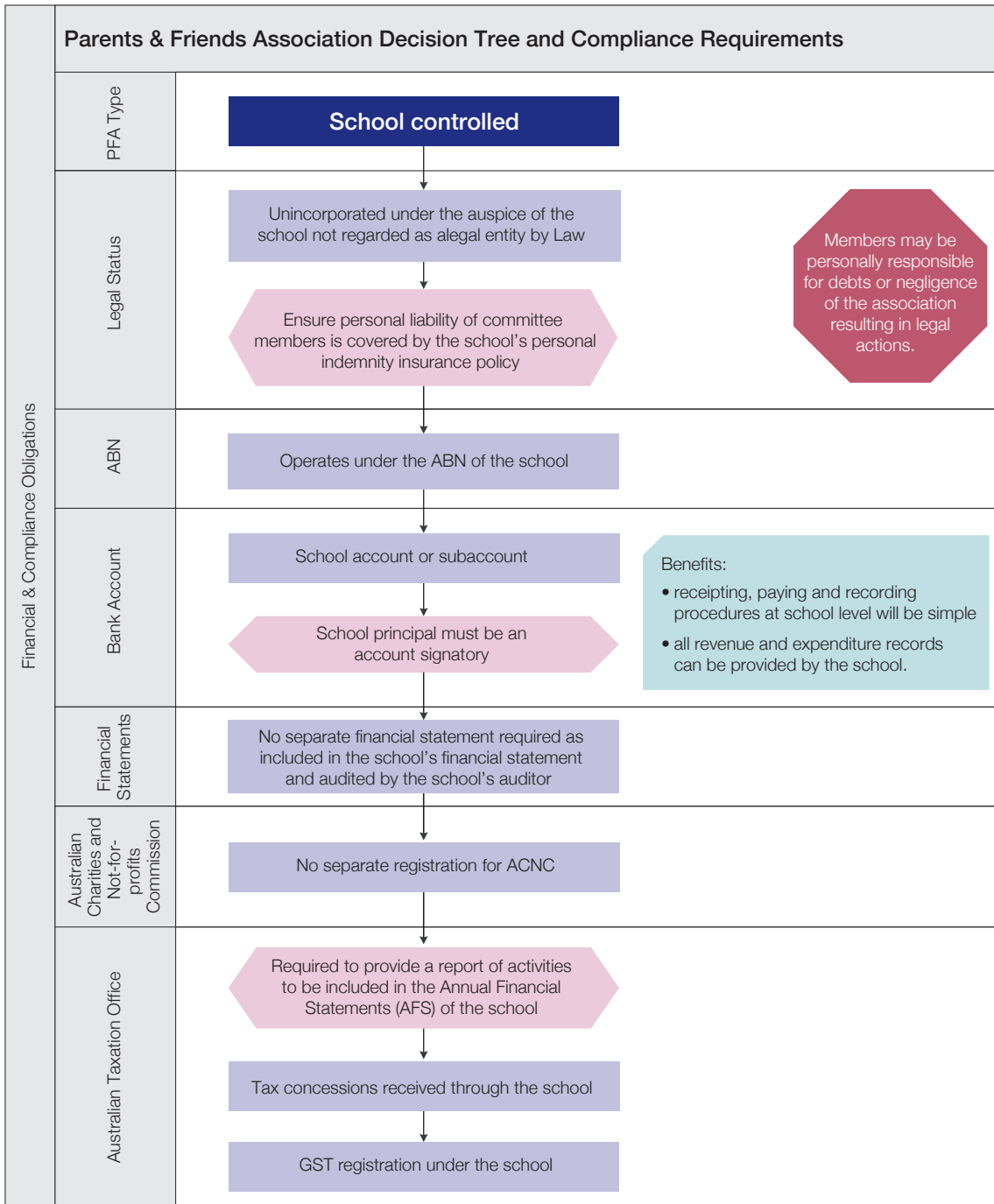
If the PFA does not satisfy any of the criteria for school or parish controlled PFA, it is likely the independent structure applies.

1a – PFA structure decision tree

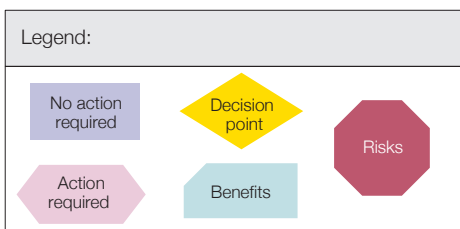
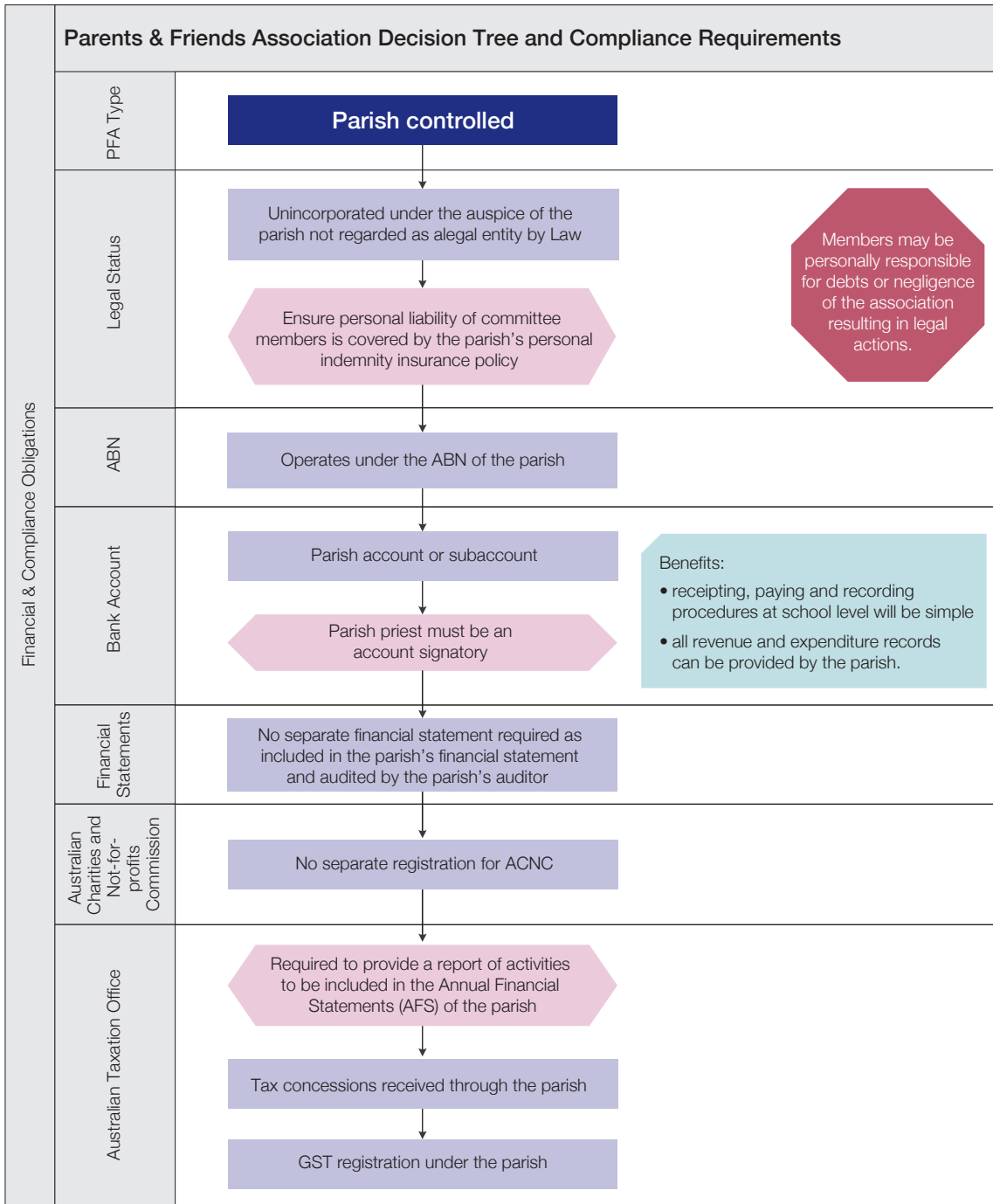


2. PFAs decision trees and compliance requirements

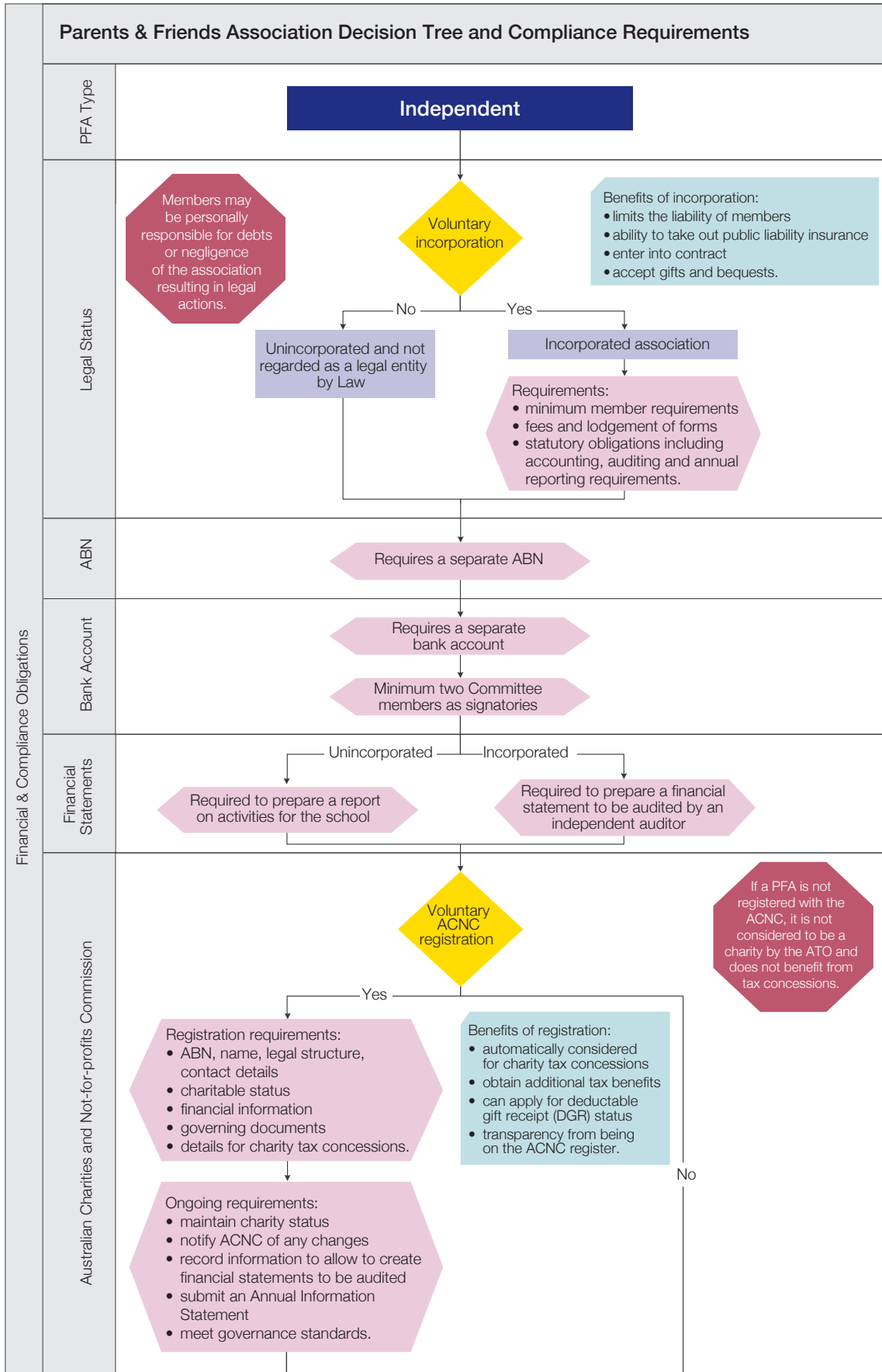
2a – Financial and compliance obligations for school controlled PFAs



2b – Financial and compliance obligations for parish controlled PFAs

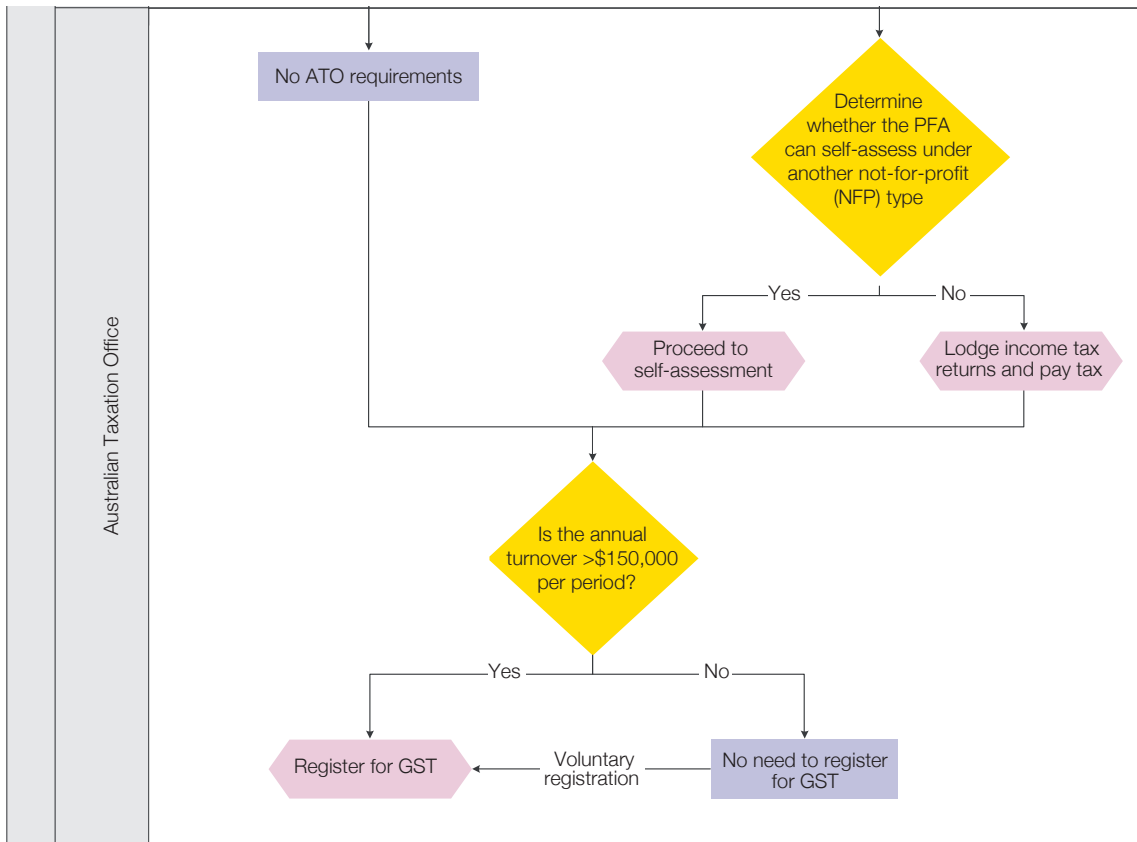


2c – Financial and compliance obligations for independent PFAs

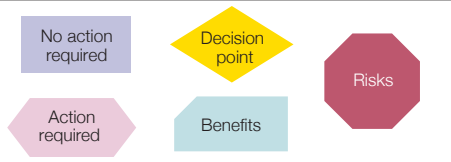


continued on page 9

2c – Financial and compliance obligations for independent PFAs (continued)



Legend:



3 – Additional information by requirement

3a – Legal status

School and parish controlled PFAs

School and parish controlled PFAs are not regarded as separate legal entities by Law as they operate under the auspice of the school or the parish.

Under this legal status, the members of the PFA may still be personally responsible for debts or negligence of the association resulting in legal actions. It is therefore important to ensure that the personal liability of committee members is covered by the school/parish's personal indemnity insurance policy.

Independent PFAs

Incorporation is voluntary for independent PFAs. Unincorporated entities are not regarded as legal entities by law. The members of unincorporated PFAs may be personally responsible for debts or negligence of the association resulting in legal actions.

Incorporation protects the individual members of the association from legal liabilities (CAV 2016a).

In Victoria, associations that wish to incorporate must register with Consumer Affairs Victoria under the *Associations Incorporation Reform Act 2012*.

Consumer Affairs Victoria provides guidance on what to consider when choosing to incorporate or not (CAV 2016b). Incorporated entities may:

- accept gifts or bequests
- buy and sell property
- invest and borrow money
- open a bank account
- sue and be sued
- take out public liability insurance with greater ease.

Other entities like Community Door also provide guidance on whether an association should consider incorporation (Community Door).

An unincorporated association can also undertake the activities listed above, however, this must be done in the name of the member who then becomes personally liable for decisions made, debts, or any legal problems arising from the association's activities.

The requirements for incorporation are (CAV 2016c):

- **Size and type of organisation:** incorporated organisation must have at least five (5) members and cannot operate for the profit of its members
- **Choose a name:** the proposed name cannot be identical or similar to another incorporated organisation and must have the word 'Incorporated' (or alternatively 'Inc.' or 'Inc') at the end of the name
- **Create rules and purpose:** the association must have a constitution which includes the association's purpose
- **Vote to incorporate the association:** the association must hold a vote to decide whether the association will incorporate or not. Notice must be given at least 21 days prior to the meeting. Unless there is already a secretary, the person who lodges the application for the incorporation will become the secretary and, unless the rules specify otherwise, the committee members of the unincorporated association will become the first management committee of the incorporated association.

An association that selects to incorporate will have to bear the costs associated with incorporation (CAV 2016d) and confirm the ongoing requirements of incorporation (CAV 2016e), including:

- submit an annual statement to Consumer Affairs Victoria (CAV)
- advise CAV of any changes to the details of the association (e.g. change in secretary, address, name of the association, rules, financial year dates)
- hold Annual General Meetings and Special General Meeting (if required)
- maintain a register of members
- resolve disputes.

3b – Australian Business Number

School and parish controlled PFAs

School and parish controlled PFAs operate under the Australian Business Number (ABN) of the school or the parish and are not required to hold a separate ABN. As such, school and parish controlled PFAs cannot enter into contracts on behalf of the school or parish and cannot directly hire personnel.

Independent PFAs

Independent PFAs are required to hold an ABN. The ABN is a unique 11 digit number that identifies your business or organisation to the government and community (ABR 2015). The application is free of charge when registered with the Australian Business Register and entitles the association to:

- register for the Goods and Services Tax (GST)
- get an AUSkey to transact online with government agencies
- be registered as a deductible gift recipient or income tax exempt charity.

In order to apply for an ABN, associations are required to:

- determine what the business structure will be
- determine if the association has previously held an ABN
- provide a tax agent number
- register a business name with the Australian Securities and Investments Commission (ASIC)
- determine the name of the legal entity
- provide the Tax File Number (if one is held by the association)
- provide business location details
- provide authorised contact details
- provide associates details
- provide business activity details
- provide the date at which the ABN is required
- complete a declaration stating that the information you have provided is true and correct.

3c – Bank account

School and parish controlled PFAs

School and parish controlled PFAs may hold a separate bank account. All transactions are conducted out of an account or subaccount of the school or parish. As such, the school principal and the parish priest must be account signatories of the school and parish accounts respectively. Where a sub/separate bank account for the PFA is established, the second signatory can be a PFA committee member at the discretion of the principal or priest. All payments and monies received must be transacted and recorded in this account.

Benefits to operating under this structure are (DET 2015, p. 11):

- simplify receipting, expenditure and accounting for PFA as managed at the school/parish level
- all revenue and expenditure records can be provided by the school/parish.

For school controlled PFAs, donations are not required to be transferred to the school as the amounts collected by PFA should already be recorded as revenue of the school. However, for parish controlled PFAs, revenue from fundraising events need to be donated to the school towards the end of the school year or when required by the school.

Independent PFAs

Independent PFAs must hold a separate bank account to the school or the parish. The two signatories for the account must be committee members. All transactions (payments and receipts) must be recorded in this account.

Under this structure, a statement of cash flow or ledger should be kept which describes the flow of cash in and out of the organisation over a specific amount of time which can be used to audit the PFA account. This statement or ledger should be reconciled with the bank statements on a monthly basis. Entries into the cash flow statement can be separated into two categories:

- **operating activities:** day-to-day activities arising from the selling of goods (e.g. uniform shop or canteen)
- **financing activities:** proceeds from fundraising events and activities.

All revenue from fundraising activities must be transferred to the school towards the end of the school year or more frequently if significant amounts of money are raised throughout the year. At the end of the school year, PFAs should retain a balance in the PFA bank account that is sufficient to run the first event of the following year.

3d – Financial statements

School and parish controlled PFAs

As PFAs under this structure are considered to be part of the school or parish, there is no further requirement to produce a financial statement for the PFA as the revenue and expenditure of the PFA will be included as part of the school's or parish's annual financial statements. These financial statements will be audited by the auditors of the school or the parish.

While there is no requirement for parish or school controlled PFAs to produce financial statements, they will need to provide the parish or school with a report on activities.

Independent PFAs

In order to provide assurance to the school that the PFA is managed appropriately, unincorporated independent PFAs are required to provide the school with a report on activities of the PFA which will include the various events or activities that have been held by the PFA as well as the sums that were spent and collected from each event or activity.

Incorporated independent PFAs are required to prepare a financial statement to be audited by an independent auditor which will need to be ratified at the PFA's Annual General Meeting and submitted to Consumer Affairs Victoria as part of the requirements for ongoing incorporation.

3e – Australian Charities and Not-for-profits Commission

School and parish controlled PFAs

Catholic schools and parishes are considered to be charitable organisations and are registered with the ACNC. Catholic schools are registered as charities for the advancement of education and for the advancement of religion whereas parishes are only registered as charities for the advancement of religion.

As school and parish controlled PFAs are considered to be part of the school or the parish, they automatically come under the school/parish ACNC registration and the benefits that this entails.

Independent PFAs

Independent PFAs have a choice to register with the ACNC or not. As registration is voluntary, PFAs should consider the benefits and the requirements when making their decision to register or not.

The benefits of independent PFAs registering with the ACNC are (ACNCa):

- access to charity tax concessions and other benefits, such as:
 - apply for charity tax concessions
 - apply for additional tax benefits as a charity for the advancement of religion
 - apply for certain categories of deductible gift recipient (DGR) status
 - receive a range of other concessions, benefits or exemptions available to charities under Commonwealth law.
- publicly confirming registration by the national regulator which increases transparency
- allows members of the public to view the PFAs details online and identifies if the PFA has fulfilled its obligations under the ACNC Act
- presence on the online ACNC register
- for PFAs which are registered with ASIC as ‘companies limited by guaranties’, filing fees and annual fees with relation to ASIC are no longer required when registered with the ACNC and these PFAs are not required to prepare audited financial statements (ASIC 2016).

In order to register as a charity with the ACNC, the PFA is required to provide the following information (ACNCb):

- Australian Business Number (ABN)
- charity name
- legal structure
- contact details
- form contact person details
- charitable purpose
- financial information
- responsible person details
- governing document/documents (constitution, rules or trust deeds)
- details for applying for charity tax concessions.

PFAs registered with the ACNC also need to comply with ongoing obligations (ACNCc), such as:

- maintain their charity status
- notify the ACNC of any changes
- record information (financial records) which allows financial statements to be prepared and audited
- report annually by submitting an Annual Information Statement (or financial report for medium to large charities) – due within six (6) months of the end of the reporting period
- meet the governance standards.

3f – Australian Taxation Office

School and parish controlled PFAs

Although not required to prepare a distinct financial statement, PFAs that are school or parish controlled are required to prepare a report of activities to be included in the audited financial statement of the school or the parish. All tax obligations will be managed as part of the school or the parish tax processes.

Tax concessions and GST credits are also considered at the school/parish level and the PFA is not required to register separately for these tax items.

Independent PFAs

Independent PFAs that have registered with the ACNC have no further specific Australian Taxation Office (ATO) requirements.

Independent PFAs that have not registered with the ACNC are not considered as charities by the ATO. PFAs will need to assess whether they can be considered as tax exempt organisations under a different not-for-profit (NFP) type (ATO 2016). If the PFA does fall into one of the NFP categories, it can proceed to the ATO self-assessment to determine whether it is required to lodge an income tax return (ATO 2015a). In the case where they cannot be considered as a NFP organisation under the ATO, it will not receive the charity tax concessions and will be required to lodge an income tax statement and pay tax.

GST registration entitles the PFAs to GST credits on certain activities (e.g. raffles and bingo, tuck shop). If the independent PFA has a GST turnover of over \$150,000 during the reporting period, it is required to register for GST (ATO 2015b). If the turnover does not reach this threshold, GST registration is optional.

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