

Hospital Foundations Act 2018

Fact Sheet 2: Administrative Arrangements

This document is intended for guidance purposes only and does not constitute legal advice. Hospital Foundations are strongly encouraged to seek independent advice to ensure compliance with the Hospital Foundations Act 2018.

Purpose

The *Hospital Foundations Act 2018* (**the Act**) provides a modern and streamlined framework for the establishment and regulation of hospital foundations. This fact sheet provides general information to assist hospital foundations in understanding the administrative arrangements relevant to hospital foundations established under the Act.

Establishment

Objects of a foundation

The objects for which a foundation may hold or manage property are as follows:

- to support, improve or promote an existing public sector hospital, public sector health service facility or a public sector health service;
- to support or promote a proposed public sector hospital, public sector health service facility or a public sector health service;
- to give financial support for the education, training or development of the employees or volunteers of a Hospital and Health Service (**HHS**);
- to give financial support for people studying or teaching medical or health science, allied health or health administration;
- to give financial support for research in medical or health science or to promote the results of that research;
- to support or promote the objectives of preventing illness and improving the health and wellbeing of the Queensland population;
- do anything else that is likely to support, improve or promote public health.¹

¹ *Hospital Foundations Act 2018* s 7.

Changing the objects of a foundation

If a foundation board wishes to change a registered object, it must apply in writing to the Minister for approval.

The application must include:

- details of the change;
- the reason for the change; and
- information to show the change is consistent with the objects listed in section 7 of the Act (see above 'Objects of a foundation').²

Powers of a foundation

Following the application and approval process, a foundation is established. Once established, a foundation is a body corporate and is able to sue and be sued.³

A foundation has all the powers of an individual and may:

- enter into contracts and agreements;
- hold and manage property;
- establish and administer trust funds;
- appoint a person to manage all or part of its funds;
- do anything else necessary or convenient to be done in performing its functions or exercising its powers.⁴

A foundation's banking powers are limited by law. Please refer to Fact Sheet 3: Financial Transactions for further information.

Functions and associated HHS

The functions of a foundation are to:

- pursue the registered objects of the foundation; and
- manage property held by the foundation, including income generated by the holding of property, to:
 - achieve the foundation's registered objects; and
 - cover costs or expenses associated with the administration of the foundation.⁵

The functions of a foundation must be performed in association with a HHS.⁶ In doing so, the foundation must have regard to any needs or priorities that the HHS notifies the foundation of.⁷ The foundation may have regard to other matters in addition to the needs or priorities of the HHS. The intent of this provision is to ensure that a foundation has due regard to the

² *Hospital Foundations Act 2018* s 22.

³ *Hospital Foundations Act 2018* ss 12, 13.

⁴ *Hospital Foundations Act 2018* s 16.

⁵ *Hospital Foundations Act 2018* s 14.

⁶ *Hospital Foundations Act 2018* s 15(1).

⁷ *Hospital Foundations Act 2018* s 15(2).

priorities of its associated HHS while still maintaining independence and control over how it achieves its objects.

A foundation may use the associated HHS' premises, office furniture and equipment owned or used by the HHS in performing its functions, with the agreement of the HHS chief executive.⁸

Public register of foundations

A register of hospital foundations is kept by Queensland Health and is published on the Department of Health's website. The register must contain the following information:⁹

- foundation names;
- establishment date of each of foundation;
- name of the associated HHS for the foundations;
- name of the existing or proposed public sector hospital, health service facility or health service for which the foundation was established, where applicable; and
- current registered objects of the foundation.

A foundation may apply to the Minister for its entry in the register to be removed.¹⁰ The Governor in Council may, by gazette notice, order that the entry for the foundation be removed from the register either:

- because of an application made by the foundation for removal; or
- if the Governor in Council is satisfied the foundation should be dissolved.

Staffing arrangements

Managing executive officer

A foundation must employ a managing executive officer.¹¹ This is a person who is the most senior officer of the foundation who manages the day-to-day operation.

Foundations use different terms to describe this position, for example:

- chief executive officer;
- general manager; or
- manager.

⁸ *Hospital Foundations Act 2018* s 20.

⁹ *Hospital Foundations Act 2018* s 79.

¹⁰ *Hospital Foundations Act 2018* s 72.

¹¹ *Hospital Foundations Act 2018* s 18(1)(a).

Employment of staff

A foundation may employ other staff it considers appropriate to perform its functions and exercise its powers.¹² A member of the foundation staff is to be paid the remuneration and allowances decided by the foundation. Staff members are employed under the Act, not the *Public Sector Act 2022*.¹³

Alternative staffing arrangements

A foundation can arrange with the chief executive of the foundation's associated HHS for the services of employees of the HHS to be made available to the relevant foundation. However, the employee:

- continues to be a HHS employee engaged on the same terms and conditions that applied prior to the employee's services being made available to the foundation; and
- is taken to be a member of the foundation's staff while the employee's services are made available to the foundation.¹⁴

Foundations do not remunerate employees of the associated HHS whose services are made available to the foundation.

More information

For more information contact the Office of Health Statutory Agencies, Department of Health, at statutory.agencies@health.qld.gov.au.

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¹² *Hospital Foundations Act 2018* s 18(1)(b).

¹⁴ *Hospital Foundations Act 2018* s 19(2).

¹³ *Hospital Foundations Act 2018* s 18(2).