



TAX, STRUCTURE & COMPLIANCE

Election Disputes: They Rarely Start with the Ballot Itself

Real Australian cases show the dispute usually begins with who was allowed to vote, not how the vote was counted

Australian courts have intervened in incorporated association elections, and the cases where this has happened share a consistent lesson: the dispute almost never starts with the vote itself. It starts earlier, with who was allowed to be a member entitled to vote in the first place.

Which rules apply to your association?

The law depends on how your association is set up. A **company limited by guarantee** follows the Corporations Act 2001 (Cth) and its constitution. An **incorporated association** follows its state or territory associations Act and its rules. A **registered charity** also follows the ACNC Act and the ACNC Governance Standards, and some Corporations Act rules are replaced for charities that are companies. Check your own governing documents, and get advice before decisions with legal consequences.

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A Real Case Showing Where This Actually Goes Wrong

In *Singh v Brisbane Sikh Temple (Gurdwara) Inc* [2022] QSC 17, a management committee rejected 2,151 membership applications less than a month before an annual general meeting at which the committee was due to be elected. Members obtained an urgent injunction restraining the election, and the court later declared the rejection of those applications void because the committee had used its power for an improper purpose, and directed it to reconsider them under the constitution. The dispute was never really about how the ballot itself was conducted. It was about whether the group entitled to vote had been properly and fairly determined beforehand, connecting directly to the membership eligibility discipline discussed earlier in this series.

The Last-Resort Remedy Courts Actually Use

In *Sengthong v Lao Buddhist Society of NSW Inc* [2016] NSWSC 1408, rival factions had each claimed to be the management committee for years after a disputed 2006 election. Rather than wind the association up, the court appointed a receiver and manager to determine membership disputes and supervise a fresh election of a management committee. This remedy exists precisely for situations where an association's own internal processes have broken down so completely that neither side can be trusted to run a fair election themselves, and it is a serious, disruptive outcome an association should want to avoid through proper process well before it becomes necessary. Courts are reluctant to intervene in an association's internal affairs, and the prevailing judicial approach favours minimal interference with a domestic organisation's own governance. Courts are more likely to intervene where the association has not followed its own rules or has denied members procedural fairness in a decision that affects their rights, and many state and territory Acts give courts or regulators specific powers in these disputes. Remedies differ between those Acts and for companies limited by guarantee, which have separate Corporations Act remedies, and most Acts and model rules require the internal grievance procedure to be used first.

The Practical Timing Risk Worth Understanding

A practical risk worth boards understanding is that election disputes can take considerably longer to resolve through formal channels than the disputed committee's own term actually lasts, meaning a challenge may still be unresolved when the contested term has already expired and a new election is due regardless. This is an argument for resolving eligibility and process disputes internally, promptly, and fairly the first time, rather than assuming a court challenge offers a timely remedy if the original process was flawed.

- Resolve membership and voting eligibility disputes with care well before any election, connecting directly to the membership category and voting rights discipline discussed earlier in this series, since this is where real disputes actually originate.
- Apply natural justice to any decision affecting a member's eligibility to vote, since a denial of procedural fairness is one of the situations in which courts become more willing to intervene in association affairs.
- Treat receivership and court-supervised elections as serious, disruptive outcomes worth actively avoiding through sound internal process, not remedies to rely on if a dispute arises.
- Recognise that formal dispute resolution can outlast the disputed term itself, making prompt, fair internal resolution considerably more valuable than a legal challenge that may never actually resolve before the term naturally ends.
- Document the reasoning behind any membership eligibility decision made close to an election, since this is precisely the kind of decision most likely to face scrutiny if a dispute later arises.

Election disputes that reach a courtroom are rarely, in substance, disputes about ballots. They are disputes about whether the people entitled to cast them were treated fairly beforehand. An association that gets membership eligibility right, and documents why, protects its elections long before voting day ever arrives. This is one of the practical governance topics built into our Board Director course, alongside the papers, tools and frameworks that turn the principle into your board's actual practice. [Explore the course](#)

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BOARDROOM ACTION WORKSHEET

Election Disputes: They Rarely Start with the Ballot Itself

Turn the resource into evidence, a decision and an accountable next step. Keep the completed record in your association's approved board records system.

1 What is the issue or decision?

State the governance question in one clear sentence.

2 What evidence do we already have?

Record the facts, source documents and stakeholder evidence available now.

3 What evidence is still needed?

Identify the legal, regulatory, financial, member or operational information still required.

4 What is the agreed next action?

Capture the owner, timeframe and how the matter will return to the board.

Action owner	Review date	Board decision or resolution

General education, not legal, financial, tax, clinical or governance advice. Confirm specifics at the relevant primary source or with your own qualified adviser. Nexus Leadership is operated by Lipstick Consulting Pty Ltd · ABN 15 619 120 482.

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