

Governance Guide for Corio Bay Rowing Club (CBRC) Committee Members

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1. INTRODUCTION

This document outlines the base roles and responsibilities of the Corio Bay Rowing Club (CBRC) Committee and its members, in carrying out their elected duties.

In summary, Club Committee members need to understand:

- What governance is.
- What policies are needed and held, and when and where they need to be applied.
- What legal responsibilities and accountabilities are held by the Committee in general, and Committee members specifically.
 - Within this, key 'day to day' responsibilities broadly include budget and asset management, external and internal legislative and other reporting requirements, on-river and off-river safety of and for members, and social responsibility.
- Who is responsible for what (through delegated functions and absolute responsibility).

The importance of effective governance within the CBRC was highlighted as a consequence of the 2006 collapse of the former balcony that extended across the front of the Club building.

Note the following:

- All Committee members need to have the level of knowledge required to enable them to perform their role with confidence.
- This document does not pretend to provide detailed information beyond that to provide guidance.
- This document identifies various information source links.
- Readers of the document should pursue the identified links and other available information (generally on-line) to obtain additional information or detail as needed.

The document has been prepared by the CBRC Governance Sub-Committee. It was approved, by the CBRC General Committee on 24 January 2018, subject to minor edit and to ongoing refinement as required. Readers should ensure that if being read, this document is the most recent CBRC Governance Guide on the Club's website.

The Authors of this document will not be held accountable for the failure of readers to understand and implement their responsibilities and accountabilities in upholding the governance requirements of the CBRC.

2. WHAT IS GOVERNANCE?

Source: <http://www.clubhelp.org.au/club-management/governance>

Governance is the overall guidance, direction, oversight and stewardship of the Club. Good governance is required by legislation. It is needed because:

- A well-run organisation is attractive to new members.
- It supports growth and development.
- Funding agencies, potential sponsors and government look favourably to well managed organisations.
- It reduces risk.

The Victorian Government provides written governance information and guidance to assist incorporated associations including sporting clubs, to conduct their business efficiently and in compliance with the law. The information and guidance are available on the internet and through direct contact with organisations such as **Leisure Networks**. CBRC has used Leisure Networks in the past to assist.

Available material includes sample model policies covering various subjects¹. These provide an indicator of the policies that incorporated associations should have or consider as a minimum. They can be adopted as a starting point and/or amended as needed to suit individual associations. As identified below a number of the policies are covered by Rowing Australia and Rowing Victoria, and these in turn cover CBRC in full or in part. (**To be further explained in subsequent versions of this document**).

They include the following:

- Sample Anti-Harassment and Anti Sexual Harassment Policies (*refer RowingAust & RowingVic Member Protection Policy*²)
- Sample Equal Opportunities Policy
- Sample Delegation of Authority Policy
- Sample Conflict of Interest Policy (*refer in part to CBRC Club Rules*³)
- Sample Diversity Policy
- *Sample Financial Management Policy (Record Keeping) (Refer in Part Club Rules- refer link at Footnote 3)*
- Sample Information Privacy Policy (*Refer RowingAust / RowingVic Privacy Policy*⁴)
- Sample Sponsorship Policy
- Sample Financial Management Policy (*refer in part Club Rules*)

¹ <http://www.clubhelp.org.au/club-management/governance/sample-policies>

² <http://www.rowingaustralia.com.au/wp-content/uploads/2015/02/RA-MPP-updated-3-May-2016-update.pdf>

³ <http://www.corriobayrowing.com/wp-content/uploads/2015/09/CBRC-By-Laws-2016-17-AGM-approved.pdf>

⁴ <http://www.rowingaustralia.com.au/ra-privacy-policy/>

- *Sample Risk Management Plan (Refer in part Club Safety Management Plan for on and off water risk)*
- Sample Equity and Inclusive Policy
- Sample Grievances and Complaints Policy Procedures (*refer Club Rules*)
- Sample Use of Social Media Policy / Procedures
- Sample Health and Safety Policy (*Refer Club Safety Management Plan*)
- Sample Access and Equity Policy
- Sample Racial Vilification Policy
- Sample Volunteer policy
- Sample Healthy and Safe Food Provision Policy (*Refer CoGG strict requirements*)
- Codes of Conduct - players and volunteers (*Refer Club Member Protection Policy*)

3. PRIMARY LEGISLATION COVERING INCORPORATED ASSOCIATIONS

The primary legislation covering the activities of Incorporated Associations are the following.

- **Associations Incorporation Reform Act 2012**; and under that Act
- **Associations Incorporation Reform Regulations 2012**

The main purposes of the **Act** are:

- a) to establish a scheme for the incorporation and registration of voluntary associations and for the registration of other registrable bodies as incorporated associations; and
- b) to make provision for the corporate governance, financial accountability and other matters relating to the rules and membership of associations registered under that scheme.

The Objectives of the **Reform Regulations** are

- a) to prescribe particulars and forms for the purposes of the *Associations Incorporation Reform Act 2012*;
- b) to provide for model rules of incorporated associations;
- c) to make provision for the winding up and cancellation of certain incorporated associations;
- d) to prescribe fees payable under the *Associations Incorporation Reform Act 2012*;
- e) to prescribe certain offences under the *Associations Incorporation Reform Act 2012* to be infringement offences within the meaning of the *Infringements Act 2006* and to prescribe for each infringement offence the penalty payable to expiate the offence;
- f) to prescribe maximum fines which can be imposed by an incorporated association on its members;
- g) to make provision for **other matters** that are necessary for carrying out or giving effect to the *Associations Incorporation Reform Act 2012*.
- h) To make redundant any unapproved Incorporated Association Constitution that was in conflict with the Model Rules.

4. GOVERNANCE COVERAGE UNDER ROWING AUSTRALIA AND ROWING VICTORIA

Content to be added based on review (yet to occur).

Refer to Appendix 2 for main current cover.

5. APPOINTMENT, ROLES AND RESPONSIBILITIES OF COMMITTEE MEMBERS OF INCORPORATED ASSOCIATIONS UNDER VICTORIAN LAW⁵

APPOINTMENT OF COMMITTEE MEMBERS

Appointment of Corio Bay Rowing Club Committee members occurs, in accordance with The Club Rules, at the Annual General Meeting in June/July. A list of current members and their positions, and Club contact information are maintained on the CBRC Website.

(<http://www.coriobayrowing.com>).

ROLE OF THE COMMITTEE AND COMMITTEE MEMBERS

The Committee (sometimes referred to in organisations as the 'management committee' or 'board') looks after the association's affairs and has legal duties under the **Associations Incorporation Reform Act 2012** (*the Act*).

Committee members are appointed according to association rules. Depending on the rules, their duties may include:

- Maintaining the association's financial viability.
- Ensuring the association's purposes are being achieved.
- Keeping up to date with legal requirements.
- Signing contracts on the association's behalf.

Specifically, Committee members' functions under the Act include:

- Ensuring an annual general meeting is held within five months after the end of the association's financial year.
- Submitting a financial statement that covers the full financial year, which gives a '*true and fair*' view of the association's financial affairs, to members at the annual general meeting.
- Overseeing the association's financial affairs including making sure the association does not continue to operate if it is insolvent.
- Appointing a new Secretary within 14 days, if the position becomes vacant.
- Returning all documents that belong to the association within 28 days of ceasing to be a Committee member.

⁵ The CBRC Rules document all the requirements of Clauses 5, 6 and 7 of the Act, because they are essentially the 2012 Version of the Victorian Governments Model Rules for Incorporated Associations.

(Refer <https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/secretary-committee-and-office-holders/committee-and-committee-members>)

LEGAL DUTIES OF OFFICE HOLDERS

Office holders have certain legal duties. These duties are based upon, and are broadly equivalent to the duties of a director, as set out in the **Corporations Act 2001 (C'wlth)**. An office holder must:

- Carry out his/her duties with care and diligence.
- Carry out his/her duties in good faith in the best interests of the association, and for a proper purpose (not, for example, their own profit).
- Not use information acquired through their position for personal advantage, the advantage of others, or to the detriment of the association.

If an office holder makes a business decision relating to the operation of the association, the office holder must, among other things:

- Make that decision in the best interests of the association.
- Not have a '*personal interest*' in the decision⁶.

PROTECTION FOR OFFICE HOLDERS

An association must indemnify its office holders from liability for activities they undertake on behalf of the association in good faith. This will protect these individuals (although not where they have deliberately broken the law). For example, if an office holder is sued for something they have done on behalf of the association and must pay damages, the association must indemnify the office holder. That is, the association will be responsible for paying damages. (**Note:** *This indemnity occurs through the CBRC's affiliation with Rowing Australia and Rowing Victoria.*)

Incorporated associations must provide any indemnity obligations (eg: penalties etc) from its own assets – the Government does not fund this indemnity. Large associations that handle contracts or agreements of significant value may consider taking out officers' indemnity insurance.

CAN AN OFFICE HOLDER BE SUED?

An office holder may face:

- Criminal action if he/she:
 - misuses their position for personal advantage
 - deliberately allows the association to trade if it is insolvent.
- Civil action of up to \$20,000 if they:
 - misuse information or their position
 - breach their duties of:
 - care and diligence
 - good faith and proper purpose.

⁶ See content under the heading of *Material Personal Interest*.

MATERIAL PERSONAL INTEREST

A Committee member must disclose any '**material personal interest**' to the Committee as soon as becoming aware of this interest. A material personal interest is something that can have a significant impact on a matter the association is discussing. All members must be advised of the nature and extent of this interest at the next general meeting.

The details of the interest must be recorded in the Committee meeting minutes.

The Committee member cannot:

- Be present while the matter is discussed at the Committee meeting, or
- Vote on this matter.

The above does not apply if:

- The interest exists only because the person is employed by the association, or
- The association was established to benefit members in the same membership class, or
- The person shares this interest with all, or most, of the association's members.

INSOLVENT TRADING

The Committee is responsible for overseeing the financial affairs (and financial health) of the association.

If an association is trading while insolvent, it means it is continuing to operate and enter into contracts, or incur debts it cannot repay.

A Committee member must ensure the association does not trade if it is insolvent.

This means that Committee needs to be diligent in the keeping and presentation of financial records and reports (via the Club Treasury) and in its awareness (via Committee members) of what is being presented to the Committee, and how the Club presents its financial position externally (including annually to **Consumer Affairs Victoria** as required under the Act).

DOCUMENTS AND CONTRACTS

Incorporated Associations may authenticate their documents under its common seal (if it has one) or with the Secretary's signature. (*The latter is normally used by CBRC*).

The Club may, subject to its rules, execute contracts or other documents if these are signed by:

- Two Committee members, or,
- A Committee member and the Secretary (if the Secretary is not a Committee member).

(Note: At CBRC the Secretary has traditionally been a Committee member.)

WHEN A SECRETARY OR COMMITTEE MEMBER LEAVES OFFICE

A Committee member or Secretary must retire and leave office in accordance with the rules. In addition, a Committee member or Secretary vacates office if they:

- Resign (a written resignation must be given to the Committee).
- Are removed via a special resolution.
- Declare bankruptcy.
- Become a represented person within the meaning of the ***Guardianship and Administration Act 1986*** (includes somebody who has suffered a severe injury or illness and can no longer look after their own interests).
- Move overseas (in the case of a Secretary).
- Get replaced by a statutory manager to conduct the association's affairs.

A person is not eligible to hold office as a member of the Committee of an incorporated association, if they have been disqualified from holding office as a director:

- Of a company under the ***Corporations Act 2001***.
- Of an Indigenous corporation under the ***Corporations (Aboriginal and Torres Strait Islander) Act 2006***; or,
- Under the ***Co-operatives National Law*** (*not applicable to CBRC*).

If currently a Committee member, the ineligible person must vacate office immediately under Section 78 of the ***Associations Incorporation Reform Act 2012***.

An association's rules may include other reasons why a person may leave office.

When a Secretary or Committee member leaves office, they must be replaced in accordance with the rules. For more information, view the [*Changing the Secretary section of the incorporated associations webpage*](#)⁷.

6. MEETINGS - INCORPORATED ASSOCIATIONS

Explanation: The following text defines meeting types (and associated information) for meetings conducted by Incorporated Associations

TYPES OF MEETINGS

General meetings

A general meeting is one that takes place in accordance with the rules. It includes both annual general meetings and special general meetings.

Associations may hold a general meeting if each member who is entitled to vote has been notified of the date, time and place, as specified in the rules.

If the association's rules provide for voting by proxy using a standard form, members must be given a copy of that form with the notice.

⁷ <https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/secretary-committee-and-office-holders/secretary#changing-the-secretary>

Annual general meeting (AGM)

An annual general meeting (AGM) is a meeting of all the members of an incorporated association which must be held once during each calendar year. The AGM must be convened in accordance with law, using the procedures in the association's rules.

(For more information on rules, view the [Incorporated association rules section](#).⁸)

Procedures for carrying out an AGM of an incorporated association vary between organisations. However, the law sets out mandatory minimum rules for giving of notice and conducting an AGM.

Incorporated associations must hold their first AGM within 18 months of becoming incorporated and all subsequent AGMs must be held within 5 months after the end of the association's financial year.

The association must hold its AGM after its financial year ends, to allow for its financial statements for that year to be presented to members.

Each association member who is entitled to vote must be:

- Notified of the date, time and place of the general meeting in the manner specified in the association's rule; and
- Given a proxy form, if the rules allow for proxy voting and there is a standard form.

What happens at the AGM?

At the AGM, the Club must present its members with the required financial statements (including additional statements or reports, depending on what tier the association is). The members review the financial statements and decide whether to accept them as the association's financial statements for that financial year.

The Committee must ensure the minutes of the AGM include a copy of the:

- Financial statements presented at the meeting.
- Certification from two Committee members that the financial statements give a *true and fair* view of the association's financial position and performance.

After the AGM, a Committee member must certify that he/she attended the AGM and that the financial statements were presented.

Members must provide certification, which they can do on the annual statement form. The form can be copied from Consumer Affairs' [Annual statement - incorporated associations page](#).⁹

⁸ <https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/rules>

⁹ <https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/annual-statement/lodging-an-annual-statement>

Apply for an extension of time to hold an AGM

If there are exceptional circumstances preventing an association from holding its AGM by the due date, a time extension application can be lodged with Consumer Affairs¹⁰. Lodgement details are on the form and extensions of time are subject to approval from Consumer Affairs Victoria.

Special general meetings

General meetings (other than the AGM) are called *special general meetings* (SGM) and must have a specific purpose.

SGMs are often called to deal with business that cannot wait until the organisation's AGM. Various matters may be considered, including those that must be decided by a special resolution. More information is available on the Consumer Affairs website¹¹.

Associations may hold an SGM if each member who is entitled to vote has been notified of the date, time and place, as specified in the rules.

If the association's rules provide for voting by proxy using a standard form, members must be given a copy of that form with the notice.

Committee meetings

A Committee is a group of members of the incorporated association who are chosen to make decisions on specific matters on behalf of the Club. Committee meetings are usually less formal than general meetings and the notice requirements to attend are also less formal. However, it is important to comply with the association's rules and to take and store accurate minutes from Committee meetings.

More information on rules is available on the [Incorporated association rules section](#) of the Consumer Affairs website¹².

Attending and voting

Unless a Committee member has been suspended under the rules, the association cannot stop the member from:

- Attending, or,
- Voting at a general meeting (if entitled).

Any technology may be used to help conduct general meetings. Eg:

- Teleconference

¹⁰ [Application for extension of time to hold an annual general meeting or lodge financial statements.](#)

¹¹ <https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/meetings#special-resolutions>

¹² <https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/rules>

- Videoconference
- Online video communication.

A member who takes part in a general meeting through the use of technology has the same rights as the members who are physically present at the meeting, including voting rights.

Special resolutions

A special resolution is a decision of particular importance made by the association.

Legally, an association can only make certain decisions by special resolution. This includes decisions to:

- Change the association's name or rules.
- Amalgamate with another association.
- Voluntarily wind up.

The association's rules may also require that other decisions be approved via a special resolution.

All voting members must be given at least 21 days' notice of a proposed special resolution. The notice must state the:

- Time, date and place where the meeting to vote on the special resolution will be held.
- Proposed resolution in full.
- Intention to propose the resolution as a special resolution.

A special resolution will be passed if:

- At least 75% of members voting at the meeting (either in person or, if the rules of the association allow, by proxy) vote in its favour, and,
- Any further relevant requirements from the rules have been met.

7. OTHER MATTERS

INSPECTING RULES AND MINUTES

If an association member asks, the association must, at a reasonable time, let the member inspect its rules and the minutes (a written record of discussions and decisions) of **general meetings**. If a member makes a written request for a copy of the rules or minutes, the association must give the member a copy within 14 days.

An association may also let a member inspect the minutes of **Committee meetings**, but only if its rules allow it. A member does not have a general legal right to inspect minutes of Committee meetings.

RULES, BY-LAWS AND STATEMENT OF PURPOSE

It is common for terms Constitution, Rules of Incorporation, and By-Laws to be confused. The following provides a brief overview.

Constitution

The Constitution/Association Rules is an organisation's 'heart and soul'. It includes its *Statement of Purpose*, adopted *Rules of Incorporation*, and structure. It provides the guidance for safe and legal practices under the **Associations Incorporation Reform Act 2012** or otherwise.

Once a single change is made to the **Model Rules** – the subsequent document is called the Constitution for the association because the rules are no longer the exact Model.

The Rules

Rules of Incorporation

Every incorporated association must have **Rules of Incorporation** which define how the organisation operates and guides the Committee.

The **Rules of Incorporation** are a contract with members, and are guided by Consumer Affairs - this is how things will be done and the rules are a legally binding document.

The **Rules of Incorporation** also define the rights of members and the responsibility of the association in meeting these rights.

Model Rules

There are **Model Rules** that associations can adopt for ease. These meet the basic legal requirements.

The **Model Rules** in Victoria have changed and supersede previous iterations. Associations should adopt the most up to date **Model Rules** or align their rules when changes are made.

An association can make **alterations to the Rules** but need to apply to Consumer Affairs- a lodgment fee applies.

Changes lodged with Consumer Affairs will be **approved or not** dependent on whether legislative requirements are met.

To change an association's rules, the process starts with a **Special Resolution** and then follows a specified process. The process details are available from Consumer Affairs Victoria.

By-Laws

By-laws are not law, excepting that they **must not contradict** the **Rules of Incorporation**.

By-laws sit **outside** the **Constitution/Rules**, however the connection is that it should be included in the **Rules of Incorporation** that the association Committee can change the by-laws.

It is important to keep **By-laws** and **Codes** out of the **Constitution** or **Rules of Incorporation** because they change more often, and it avoids the need to have to pay a fee every time an amendment is made. They do not constitute the law and are not part of the contract.

- **Changing of by-laws** does not require a Consumer Affairs application or approval unless it requires a change to the association rules to administer the change.

By-laws are generally **more operational and internal to the sport** in nature. They define the rules internal to the sport or competition and some are laid down by the state body or the association/league.

The sorts of **things defined in an association's by-laws** are for example: how often delegate meetings are held, how teams register, age requirements for competitors, any competition details that relate to the club, dress codes, clearance processes etc.

The History of CBRC Constitution and By-Laws.

Prior to 2016 CBRC operated under a Constitution that was based on the statutory requirements at the time of creation with modifications that matched the Club's organisational structure. However, because this Constitution had not been lodged or approved by Consumer Affairs since the new regulation it was in potentially null and void.

The Club therefore updated its rules of operation to be consistent with the statutory requirements of the Model Rules. The Club Constitution was therefore made redundant by the adoption of a variant of the Model Rules and a new set of Club By-Laws.

The By-Laws now comprise two parts;

- **Section 1** describes the requirements of the original Constitution that are not covered by the new Rules.
- **Section 2**, which is essentially a version of the original By-Laws.

Section 1 maintains the precedence of the original Constitution and Club Rules and requires a vote of a General Meeting for change. Conversely, Section 2 can be modified by Committee.

8. APPENDICES

APPENDIX 1: CURRENT CBRC GOVERNANCE-RELATED DOCUMENTS (AT SEPTEMBER 2017)

Note: The following list is subject to correction and addition.

Document	Publication Date	Review Due Date
CBRC Safety Management Plan (On-water) Risk Assessment (On-water) – Sculling Test	July 2017 July 2017 Nov 2016	To be determined
Alcohol Management Policy	Feb 2017	To be determined
Boat Allocation and Usage Policy Boat Allocation Policy - Related User information	July 2017	To be determined
CBRC By-Laws 2016- 2017	Jan 2017	To be determined
CBRC Keys Register	Dec 2016	To be determined
CBRC Committee Responsibilities Matrix Rev A	Oct 2016	To be determined
CBRC Rules 2016 Revision 1	Sep 2016	To be determined
Governance: Club Assessment Results	June 2017	To be determined
Member Protection Policy (MPP) Appendix C2 Declaration Blank (Rowing Australia form)	Aug 2017	To be determined
Private Boat Usage Policy	Feb 2016	To be determined
Rowing Australia Member Protection Policy – Version 7	Jan 2016	To be determined
Register of Positive Working With Children Checks	Aug 2017	To be determined
Rowing Victoria Child Safe Code of Conduct 24.01.17	Feb 2017	To be determined
Student Member Policy	Feb 2016	To be determined

APPENDIX 2: ROWING VICTORIA RULES AND POLICIES

The following Rules and Policies provide all the necessary rules, policies and regulations that are required to administer the sport of Rowing in Victoria.

Note: All are titles are linked live to the relevant document.

RULES

[RV Constitution](#)

[RV Rules - September 12 2017](#)

[RV Summary of Rule Changes](#)

ROWING AUSTRALIA POLICIES

[RA Member Protection Policy](#)

[RA Privacy Policy](#)

[RA Anti-Doping Policy](#)

[RA Illicit Drugs in Sport Policy](#)

[RA Illicit Drugs Policy - Out of Competition](#)

REGATTA POLICIES

[RV Umpire Rostering Policy](#)

[RV Adaptive & Para Rowing](#)

[RV Boat Class Summary](#)

[RV School Boat Class Summary](#)

[RV Composite Crew Approval Guidelines](#)

[RV Coxswain Weighing Policy](#)

[RV Entry Policy for School Events](#)

[RV Preset Order of Events Guiding Principles](#)

[RV Regatta Cancellation Guidelines](#)

[Masters Handicaps - Female, Male and Mixed](#)

PARTICIPATION POLICIES

[Code of Behaviour for participation in the sport](#)

[Respecting the Umpire](#)

[Child Safe Policy](#)

[Child Safe Code of Conduct](#)

[EPA - Prohibited times for residential Noise](#)

[Level 2 Volunteer Agreement](#)

[General Volunteer Agreement](#)

ROWING SCORE

[RV Rower Score Appeals Process & Appeal Form](#)

[RV Rowing Score Summary](#)

SAFETY

[RV Safety Management Plan](#)

[RV Extreme Heat Policy](#) - current for the 2017-18 season

[RV Boat Light Policy](#) - current for the 2017-18 season

[RV Mandatory Coach Accreditation Policy](#) - current for the 2017-18 season

CLUBS

[RV Member Club Colors](#)

[RV Member School Colors](#)

[RV Club and School Colour Change / New Uniform Application Form](#)

[RV Member Transfer Form - Interstate Transfers for States not using Rowing Manager](#)

[RV Membership Update for the 2017-2018 Season](#)

[RV 2017-18 Fees & Levies](#)

[Club and School Contact Update Form](#)

[Club and School Affiliation Form 2017](#)

Other Important Documents

[Rowing in the Port of Melbourne](#)

[WADA Prohibited List 2017](#)

The Commission for Children and Young People - [Being a Child Safe Organisation](#)

VicSport - [Child Safe Standards](#)

VicSport - [Customer Data: What are my obligations](#)

APPENDIX 3: GOVERNANCE REQUIREMENTS/DOCUMENTS REQUIRED OR NOT YET PREPARED

Content for this Appendix requires work based on identification of current gaps in CBRC Governance documentation. Work for this can commence as the next stage in the Club's governance program.

An initial example may include the need for a ***CBRC Office Holder's Indemnity Policy***.

APPENDIX 4: GOVERNANCE DELEGATIONS WITHIN CBRC

To be prepared/added