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# Glossary

**Board** – the governing body of a non-government organisation, made up of Directors or members of a management committee.

**Constitution** – the name given to the memorandum and rules of an organisation.

**Director** – a person formally elected and/or appointed under law to a Board, in accordance with the organisation's constitution. *Note: Associations refer to the members of their governing body as management committee members. The term 'Director' is used in this manual to include management committee members.*

**Dissent** – to differ in sentiment or opinion, from the majority.

**Duty of care** – the obligation to take reasonable care to avoid causing harm to another person.

**Fiduciary duty** – the highest standard of care imposed at either equity or law.

**Governance** – the legal authority of a Board to establish and be accountable for policies that will affect the life and work of the organisation.

**Incorporation** – the process where the rules of the organisation are registered with a government agency.

**Insurance** – a contract whereby the insurer agrees, for payment of a premium by the insured, to indemnify the insured against loss on the happening of certain events. The insurance policy is the document which contains the insurance contract.

**Legal entity** – any individual, partnership, proprietorship, corporation, association or other organisation that has, in the eyes of the law, the capacity to make a contract or an agreement and the abilities to assume an obligation and to pay off its debts. A legal entity, under the law, is responsible for its actions and can be sued for damages.

**Liability** – subject to a legal obligation; or the obligation itself. A person who commits a wrong or breaks a contract or trust is said to be liable or responsible for it.

**Organisation** – a company, firm, enterprise or association, or other legal entity, whether incorporated or not, public or private, that has its own function(s) and administration.

**Purpose statement** – an organisation’s written summary of its values and core business.

**Quorum** – the minimum number of people required to be present before a meeting can conduct business.

**Risk** – the likelihood and consequence of something happening that will have an impact upon objectives.

**Risk management** – the process of identifying, assessing and judging risks, assigning ownership, taking actions to mitigate or anticipate them, and monitoring and reviewing progress.

**Stakeholders** – any person or organisation with an interest in the operations of an organisation.

**Terms of reference** – a document that usually describes the purpose and scope of an activity or requirement.

**Vision** – where an organisation wants to be at the end of the planning period.

**Volunteer** – a person who freely chooses to give their time, skills and experience to support their organisation’s activities.

# About this chapter

This chapter provides a practical approach to understanding the responsibilities and obligations associated with being a Director of a non-government organisation.

Resources and Policy Checklists are included at the end of this chapter. They can be copied and worked through by your entire Board on an annual basis, or as required.

## 1.1 What is corporate governance?

Corporate governance is the legal authority given to the Board or management committee of an organisation to manage the affairs of the organisation.

There are four important parts to the governance role<sup>1</sup>:

- Leadership
- **Safeguarding** – ensuring the organisation has effective risk management processes, well-planned and managed human resources and finances, and complies with relevant legislation
- Monitoring and managing
- Viability.

Effective governance is an essential component of any successful organisation.

Organisations will have different approaches to governance depending on:

- Size
- Nature of its business
- Financial position
- Distribution of work between paid management and the Board
- Distribution of work between volunteer committees and the Board.

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<sup>1</sup> Bradfield Nyland Group & Spall Watters Group: *Governance Development Resource Pack*, 2008

## 1.2 Director responsibilities

### Introduction

Directors of incorporated non-government organisations have legal responsibilities. Incorporation is the process whereby an organisation is registered as a legal entity.

Aboriginal and Torres Strait Islander organisations may also incorporate as a corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)*.

There are other forms of incorporation such as cooperatives in most States and some religious organisations are constituted under state legislation. However, the general principles laid out in Associations and Corporations law are applicable to effective governance in all organisations.

### 1.2.1 The constitution

The constitution of an organisation outlines its purpose and the basic rules or principles by which the organisation is governed. The Constitution includes rules for conducting Board meetings and the annual general meeting (AGM), and can be used as the guiding document to govern the organisation.

### 1.2.2 Legal obligations of the Board

Directors are required to understand the needs of the organisation and their legal responsibilities.

Directors are given a position of trust by the members and therefore have certain duties to the organisation and its members. These are known as fiduciary duties. These duties require a Director to act competently, honestly, in good faith and in the best interests of the organisation.

If a Director fails to satisfy any of these duties they may become personally liable to penalties or lose the protection of limited liability.

### 1.2.3 Duties of Directors

Directors must remember that they have a duty to act in the interests of the organisation as a whole.

The main statutory and common law duties of Directors are:

- Acting honestly, in good faith and in the interests of the organisation as a whole. Directors must be truthful and must not conceal information from the organisation
- Exercising the degree of care, skill and diligence that a reasonable person in a like position would exercise. Directors must maintain a working knowledge of the organisation, keep informed and monitor the organisation's performance and financial status
- Avoiding any actual or potential conflict between the obligations owed to the organisation and a Director's personal interest or other duties
- Keeping information confidential
- Disclosing advantages or business opportunities acquired
- Preventing insolvent trading by the organisation and ensuring the organisation does not continue to operate when it will be unable to pay its debts when they are due.

#### 1.2.4 Duties and obligations relating to conflict of interest

##### **Duty to avoid conflict and to disclose interests**

A Director's personal interests (e.g. a business that could supply services to the organisation) or other duties (such as a Director of another organisation) and their duty to the organisation must not be brought into conflict.

Situations that give rise to conflicts of interest may include:

##### **Directors or officers taking advantage of opportunities for personal gain**

Directors have an obligation not to profit personally from their position as Director and not to allow a conflict to arise between their duties as Director and their own self interest, such as:

- Being interested in a business opportunity for their own benefit which the organisation is also actively pursuing
- Offering to provide services to the organisation for a fee – any contracts should be awarded through a fair and open process
- Making use of organisational property, such as a vehicle, for private use

- Withholding information about an opportunity, such as a possible funding source, in order to make use of it themselves.

### **Conflict of external duties with Directors' duties**

Where a Director holds an office or property that creates duties in conflict with their duties as a Director, they should declare the interest at the next meeting of the Board after they become aware of the conflict. This most commonly happens when a person is on the Board of another organisation which may be competing for the same funding.

### **Conflict of personal interest**

This includes situations when a Director has a personal interest in the outcomes of decisions. This may occur if a Director has a close personal relationship with:

- An existing staff member, volunteer or, client who have interests which may conflict with the best interest of the organisation
- People seeking employment or services from the organisation who could potentially influence the Director in the selection process.

## **1.2.5 Limited liability**

Under the specific forms of incorporation for non-government organisations a Director's personal financial liability is limited as long as they perform their duties diligently. This is usually limited to a nominal amount (such as \$1) that is stated in the organisation's constitution.

A Director may become personally liable if they knowingly take decisions that are negligent.

### **Dissenting committee member(s)**

Directors may record a dissenting vote against a decision they view as unwise or irresponsible and have a duty to ensure that they notify the police and/or the relevant regulating body of any breaches of the law.

## **1.2.6 Role of Directors**

Individual Directors are responsible for understanding their financial, legal, ethical and constitutional responsibilities.

The Australian Securities and Investments Commission (ASIC) advises Directors to:

- Be fully up to date with what the organisation is doing
- Understand the impact on the organisation of any proposal
- Seek outside professional advice when needed
- Question management and staff about how the business is going
- Take an active part in Board or committee meetings – not be just a ‘rubber stamp’.<sup>2</sup>

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2 ASIC, The Watchdog’s Guide, 2002.

## 1.3 Know your business

### 1.3.1 The role of the Board

The Board's governance role requires the Board to provide leadership, safeguard the organisation's interests, ensure accountability and ensure long-term viability.

The main functions and tasks of the Board are to:

- Describe the organisation's values, vision and purpose
- Set the strategic direction, objectives, and define critical policies
- Set the ethical framework for the organisation – such as a Code of Conduct
- Define the management delegations
- Recruit the senior manager and monitor their performance
- Monitor the performance of the organisation against the approved plans and budgets
- Manage the organisation's finances
- Manage engagement and communication with stakeholders
- Manage risk
- Ensure compliance with policies, laws and regulations
- Ensure that the Board's own governance structure and processes are effective.

### 1.3.2 Setting directions for the organisation and guidelines

This involves the Board:

- Developing a strategic business plan which outlines the organisation's purpose, vision, values, objectives and performance indicators
- Developing a financial plan and approving annual budgets
- Developing a strategic human resources plan
- Approving organisational policies and procedures, including delegations for decision making for the senior manager and other staff
- Establishing performance measures for staff and the organisation.

Operational plans will usually be developed by the senior manager to describe how the strategic business plan will be implemented.

The Board may also want to develop specific plans or strategies such as:

- A promotion or marketing plan to promote the organisation's profile or particular message
- A communication strategy
- A stakeholder management strategy to manage those relationships to benefit the organisation.

### 1.3.3 Ensuring safeguards are in place

Safeguards in organisations enable a Board to ensure the management of the business effectively complies with relevant legislation. Safeguards include:

- A risk management plan containing strategies and systems to effectively manage risk
- Occupational health and safety procedures
- Legal compliance checklists
- Adequate insurance cover
- Standards for service and practice
- Client feedback and complaints procedures
- Critical incident reporting.

The Board should ensure that all these plans and procedures are in place, at a level that is appropriate for the organisation's size, complexity and service type.

### 1.3.4 Establishing reporting procedures

The Board should establish reporting procedures that maintain internal control and provide external accountability. These will include:

- Internal reporting by the senior manager, against key performance indicators and the budget
- Financial reporting to the Board on a regular basis
- External reporting to funding bodies, regulatory authorities and members.

The Board must provide an annual report to members that includes an audited financial report. This usually informs the public annual report. The Board should also ensure that data collection and information management systems are adequate to support all reporting needs.

### 1.3.5 Developing long term financial plans and succession plans

The development of longer-term financial plans (over three to five year periods) is usually part of strategic business planning.

This process should include consideration of how the organisation's financial situation will change over time, the factors that may impact on it and how the Board will ensure that the finances remain healthy.

It is the Board's ultimate responsibility to maintain the viability of the organisation and the effectiveness of its governance.

## 1.4 Being an effective Board

### 1.4.1 Introduction

For a Board to be effective in its role, it needs to:

- Have the right structure and composition to suit the organisation
- Ensure the Board has the skills required
- Be able to maintain itself over time through recruitment and succession planning
- Maintain and develop the skills of its members and its overall performance
- Establish a good working relationship with senior staff and a strong accountability framework
- Conduct productive meetings and get through its business efficiently.

### 1.4.2 Board composition

It is important that a Board is structured effectively and that its processes allow it to fulfil its roles in setting strategy, monitoring performance, supporting the senior manager and engaging with stakeholders.

The Board should be of sufficient size and be made up of people with an appropriate range of skills to ensure that it can do its job well.

Most Boards range between seven and twelve people. Large Boards can increase the pool of expertise available, share workload and maintain diversity. Small Boards can be easier to manage and coordinate.

To develop a 'skills based' Board, the organisation needs to develop specific criteria for Directors that reflect the range of skills required. The skill set should be reviewed on a regular basis.

Most Boards also have specific positions that carry additional responsibilities known as 'office bearers'. Traditionally, these are:

- Chairperson or president – responsible for providing leadership and (usually) chairing Board meetings
- Treasurer – responsible for the finances of the organisation
- Secretary – responsible for minutes, membership and other incorporation compliance.

These positions – and the titles of these positions – are specified in the organisation's constitution.

## Board independence

The input of experienced, qualified Directors can improve the future success and viability of organisations.

The majority of individuals on the Board should be independent of the management and staff team, and of any commercial dealings with the organisation.

## Role and function of sub-committees

Well performing sub-committees can support the Board in carrying out its work.

A sub-committee should be large enough to capture sufficient skills and experience, but not so large that the effectiveness of decision-making is reduced.

There should be clear terms of reference, delegation of decision-making and requirements for regular reporting to the Board.

### 1.4.3 Maintaining the Board membership

#### Appointment and selection of Directors

The Board needs to establish and document a formal process to nominate, elect or appoint the chairperson and Directors.

The procedures for nomination, election and appointment must be open and transparent, and comply with the organisation's constitution.

Minimum and maximum terms (the length of time, such as two to three years, that someone may remain a Director or an officer bearer) will be specified in the constitution or related policy. Terms of appointment can be used to ensure:

- That continuity and stability is maintained by not all the Board being replaced at the one time
- That the Board is 'refreshed' on a regular basis.

## **Board and management succession planning**

Succession planning is the process of identifying when vacancies will occur, what attributes are needed in the person filling that vacancy, and how they will be recruited.

The Board should routinely discuss succession planning to ensure the smooth transition from outgoing to incoming Directors.

The Board should also ensure it has a succession plan for the replacement of the senior manager and that there are appropriate career paths for senior management.

### **1.4.4 Maintaining and developing Board performance**

#### **Board induction and training**

Directors should be provided with induction training on appointment and professional development opportunities should be made available where necessary and affordable.

#### **Performance review for the Board**

The Board should consider its collective performance. It is good practice for a Board to undertake regular assessment of its own performance and the performance of individual Directors.

Regular review by the Board can take the form of:

- Simple feedback forms
- A discussion about aspects of the Board's performance
- An independent evaluation.

## 1.5 The Board and the senior manager

### 1.5.1 The Board's role in working with the senior manager

If an organisation has paid staff, then the Board will be directly responsible for recruiting and managing the most senior staff person. This staff position will usually be responsible for managing any other staff.

Depending on the size of the organisation, and its preferences, the position of senior manager may be known as a Chief Executive Officer (CEO), Executive Officer (EO), (General) Manager, Director or Coordinator. The Board's role in relation to the senior manager will be to:

- Determine what the job will involve
- Approve the position description and duty statement
- Determine and review remuneration (salary and other benefits)
- Organise recruitment processes
- Establish the delegations of authority – the decisions that the senior manager will make without the Board
- Establish reporting requirements
- Maintain communication and meet on a regular basis with the senior manager
- Conduct regular performance reviews.

It is also important that the Board and the senior manager have a good, productive working relationship, based on a clear understanding of their respective roles and expectations, agreed procedures and mutual respect.

### 1.5.2 Delegations of authority

Just as the members of the organisation entrust the governance of the organisation to the Board, the Board in turn delegates responsibility for the day-to-day running of the organisation to the senior manager. This will vary between organisations. Accountability is maintained by the Board by:

- Identifying what it wants the senior manager to achieve
- Setting clear policy, procedures, plans and budgets that guide the senior staff person in how they go about their work
- Receiving regular reports.

Boards may use a 'policy governance'<sup>3</sup> approach. In a 'policy governance' approach, the Board focuses on what the organisation is trying to achieve, and the values it will operate by and moves away from being involved in the decisions

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3 John Carver, [www.carvergovernance.com](http://www.carvergovernance.com)

about what gets done within the organisation. The Board sets the broad policy that the senior manager will implement.

In deciding how far to go down the policy governance path, a Board needs to keep in mind its fiduciary responsibilities. The Board needs to ensure that it is not leaving the organisation vulnerable to mismanagement, legal risks or insolvency.

### **1.5.3 Performance reviews for the senior manager**

The Board is responsible for monitoring the performance of the senior manager and ensuring that:

- Agreed outcomes are being achieved
- Management practices comply with accepted standards
- The organisation is complying with external requirements.

Ongoing monitoring is commonly done through reporting by the senior manager to the Board. It is therefore critical that reports from the senior manager address:

- Progress on planned activities and strategies – usually reported against agreed milestones or time frames
- The achievement of particular outcomes and the performance of the organisation generally – usually reported against agreed performance measures in the organisation's plan
- The financial performance of the organisation
- Legal and other external obligations and/or a risk management report
- Any issues or incidents that the Board needs to be aware of, or needs to make a decision about.

An annual performance appraisal should also be conducted with the senior manager. This involves a review of how the senior manager has been working, using the information from regular reporting and one or more of the following:

- Reflection by the senior manager on their own achievements and challenges, identifying areas for improvement
- Review of performance against agreed performance measures
- Feedback from Board members on the senior manager's performance
- Feedback from staff and/or volunteers on the senior manager's performance
- Feedback from peers and/or clients (colleagues in other agencies, community members).

## 1.6 Organising and conducting meetings

### 1.6.1 Conducting Board meetings

Productive Board meetings are critical for getting Board business done effectively and efficiently and for retaining the energy and enthusiasm of Board members.

The basic principles for conducting productive meetings are:

- **Establish group rules about behaviour and values**
- **Set an agenda**
- **Send papers in advance**
- **Follow meeting procedures:**
  - Record attendance and receive apologies
  - Review the agenda, and agree on any additional items, prioritise items and allocate times if appropriate
  - Review minutes from last meeting and vote on acceptance, and/or amendments
  - Deal with 'Business Arising' – any items from the minutes that are **not** in this meeting's agenda
  - Deal with the agenda items.
- **Facilitate discussion**
- **Make decisions – propose a motion and take a vote**
- **Close the meeting.**

Meetings should be formally recorded in minutes and include details of the above principles.

### 1.6.2 Holding meetings of members

Rules relating to meetings of members of the organisation derive from common law, from statutory requirements under the *Corporations Act (Cth) 2001* for companies, from the relevant Associations Incorporation legislation for incorporated associations, and from the organisation's own constitution. Many of the rules relating to the conduct of meetings of members are designed to enhance the legitimacy and quality of decision-making, by ensuring that:

- There is adequate access for members to the forum of the general meeting
- Members have sufficient opportunity to attend and enough information about the resolution(s) before the meeting to decide whether or not to attend the meeting
- The resolution(s) represent(s) the will of the members

- Members, who so wish, are able to participate in the voting process
- A resolution of the general meeting is an informed decision.

### **Legal requirements**

The conduct of meetings of members by most non-government organisations is governed either by the incorporation legislation (e.g. the *Associations Incorporation Act (NSW) 1984*, or in the case of companies limited by guarantee, the *Corporations Act (Cth) 2001*) and the organisation's own rules.

The organisation's constitution should address the following:

- The intervals between regular general meetings of members (such as the AGM) and the manner of calling general meetings
- The quorum and procedure at general meetings of members and whether members are entitled to vote by proxy
- The time within which, and manner in which, notices of general meetings and notices of motion are to be given, published or circulated.

Under the *Associations Incorporation Act (NSW) 1984* (the Act), an incorporated association must convene a general meeting of members within six months of the end of each financial year of the association or else each member of the committee is guilty of an offence and may be liable to a penalty.

### **Meetings called by a Director**

The constitution of most organisations provides that the Board (or a single Director) can convene a general meeting of the organisation. This is to allow the Board to bring some urgent business before the members which the Board consider requires the members' approval or consideration.

### **Meetings requested by members**

Under Corporations Law Directors must call a general meeting of members if requested by a certain number of members. There is no similar obligation under the *Associations Incorporation Act (NSW) 1984*. However this right is usually included in the constitution of incorporated associations. It is recommended that such a right be included in the constitution.

These are called special general meetings and require careful consideration as they usually (a) deal with urgent or major business which is of concern to the requisitioning members and (b) are sometimes costly to convene and conduct.

### **Meetings called by members**

Where the Directors fail to comply with a requisition of members to convene a general meeting, the members themselves can convene that meeting. This is expressed in corporations law but, in the case of incorporated associations, this should be expressly set out in the constitution of the organisation.

### **Meetings ordered by the court**

While there is no provision in corporations law for courts to order that meetings be held, this does not apply to incorporated associations.

It is possible that members of an incorporated association could seek an order from a court ordering an association to convene a general meeting. It is not usual for such matters to be provided for in the constitution of an incorporated association.

## **1.6.3 Chairing a meeting**

### **Role and function of Chair**

The Chair should ensure that discussion is open and enables all participants to take part, that relevant issues are included in the agenda and that all Directors receive timely information.

The main roles and functions of the Chair include:

- Understanding all statutory, constitutional and procedural requirements for the meeting
- Determining that the meeting is properly convened and constituted and that a quorum is present
- Informing himself/herself as to the business and objects of the meeting
- Preserving order in the conduct of those present and confining discussion within the scope and time limits of the meeting
- Deciding whether proposed motions and amendments are in order

- Formulating for discussion and decision, questions which have been moved for consideration
- Deciding points of order and other incidental matters which require decision at the time
- Ascertaining the sense of the meeting by:
  1. – Putting relevant questions to the meeting and taking a vote on them
  2. – Declaring the result
  3. – Causing a poll to be taken if duly demanded
- Handling all matters in an impartial manner
- Dealing with the record or minutes in the proceedings
- Adjourning the meeting where justified
- Declaring the meeting closed when its business has been completed.

### **Absence from meetings**

Where the Chair is absent from general or Board meetings, the Constitution will usually prescribe the procedure which is to be followed to appoint another Chair. If there is no procedure, then the Board may appoint a new Chair for the relevant meeting.

# References

## **Australian Securities and Investments Commission (ASIC)**

Phone: 1300 300 630

Email: [info.enquiries@asic.gov.au](mailto:info.enquiries@asic.gov.au)

[www.asic.gov.au](http://www.asic.gov.au)

As the corporate regulator, ASIC is responsible for ensuring that company directors and officers carry out their duties honestly, diligently and in the best interests of their company. The ASIC website includes a range of resources to assist directors/committee members.

## **Council of Social Service NSW (NCOSS)**

Phone: (02) 9211 2599 ext 127

Fax: (02) 9281 1969

Email: [msu@ncoss.org.au](mailto:msu@ncoss.org.au)

[www.ncoss.org.au](http://www.ncoss.org.au)

The NCOSS Management Support Unit (MSU) provides management support and assistance, training and resource materials to community based, non-government organisations.

## **NSW Office of Fair Trading**

Phone: 13 32 20

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

The Office of Fair Trading maintains the Registry of Co-operatives and Associations and provides advice on fair and ethical practices. The Office of Fair Trading website includes information on running an incorporated association.

## Published materials

A range of books, guidelines and web-based materials are available to assist Boards. For example:

- Bradfield Nyland Group and Spall Watters Group: *The Governance Development Resource Pack*, available on Queensland's Community Door website: [www.communitydoor.qld.gov.au](http://www.communitydoor.qld.gov.au)
- Queensland University of Technology Centre for Philanthropy and Non-Profit Studies, *Developing Your Organisation*, available at [www.olt.qut.edu.au/bus/dyo/](http://www.olt.qut.edu.au/bus/dyo/)
- web based materials at [www.ourcommunity.com.au](http://www.ourcommunity.com.au).
- David Fishel, *The Book of The Board*, The Federation Press, 2003

## Relevant Legislation

NSW Legislation

[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

Associations Incorporation Act 1984 (NSW)

Commonwealth Legislation

[www.comlaw.gov.au](http://www.comlaw.gov.au)

Corporations Act 2001 (Cth) No 50

# Resources

<b>Checklist 1: Corporate governance</b> To assist you to understand the corporate governance practices of your organisation. Tick 'Yes' or 'No' and utilise the actions column to make notes.		<b>DIRECTOR'S NOTE</b> This checklist can be completed by your Board on an annual basis	
<b>Questions</b>			
<b>Corporate Governance</b>			
Yes	No	Comments/Actions	

Questions	Yes	No	Comments/Actions
Do we have job descriptions and qualification statements for our Directors?			
Do we have a policy on terms of office for Directors? Are we aware of what our Constitution says in this regard?			
Do we have a formal process to select, and replace the Directors, the Chair and the senior manager?			
Do we acknowledge in writing the appointment of Directors, the Chair and the senior manager?			
Do newly appointed Directors sign a consent to act as a Director?			
Do we have processes in place for succession planning?			
Do we have a policy on appropriate ethical standards for our Directors?			
Do we have a process in place for induction and ongoing training for Board members?			

Questions	Yes	No	Comments/Actions
<b>Corporate Governance</b>			
Do we have agreements in place that cover noncompetition, confidentiality issues and conflicts of interest?			
Do we have a register for declarations of conflicts of interests?			
If yes to the preceding question, is it regularly updated and is it made available to members upon request?			
Do we have sub-committees?			
If yes to the preceding question, do they:			
■ Relieve the Board of certain tasks?			
■ Utilise specialist skills?			
■ Assume the role of management?			
■ Have terms of reference setting out their scope of work, roles and responsibilities?			
■ Circulate minutes to the Board and management?			
■ Report at least annually to the Board?			
<b>Questions</b>	<b>Yes</b>	<b>No</b>	<b>Comments/Actions</b>

The Board is balanced?				
Discussion is open?				
Discussion includes all Directors / members?				
Have productive, well-facilitated discussion?				
Relevant issues are included on the agenda?				
Are our Directors able to seek independent professional advice?				
All Directors receive timely information for meetings and between meetings?				
Have a set agenda?				
Receive papers in advance?				
Have a standard procedure that includes reviewing and accepting the minutes from the previous meeting?				
Record decisions clearly?				
Record the main proceedings in minutes?				
<b>Questions</b>	<b>Yes</b>	<b>No</b>	<b>Comments/Actions</b>	
<b>Corporate Governance</b>				

Monitor the performance of senior management?					
Take an active interest in getting to know senior management?					
Ensure that career paths are defined for senior managers?					
Have a process of assessment of its own performance in place?					
Consider its collective performance?					
Consider the performance of individual Directors?					
Establish measurements against agreed short and long term goals?					
Identify areas of underperformance?					
Evaluate remedial courses of action?					
Assess the effectiveness of the organisation's system of internal control?					
That the business is a going concern?					
<b>Questions</b>	<b>Yes</b>	<b>No</b>	<b>Comments/Actions</b>		
Undertake a regular review of the organisation's finances?					

Have systems in place to ensure that our organisation identifies the principal strategic, operational and financial risks to which it is exposed?					
Ensure that systems are in place that facilitate the effective monitoring and management of the principal risk to which our organisation is exposed?					
Determine that our organisation has instituted adequate reporting systems and internal controls (both operational and financial) together with appropriate monitoring of compliance activities?					
Satisfy ourselves that the systems for managing risk are working properly?					
Establish and monitor policies which are directed to ensure that the organisation complies with policies, law and regulations and conforms to the highest standards of financial and ethical behaviour?					
<b>Questions</b>	<b>Yes</b>	<b>No</b>	<b>Comments/Actions</b>		
<b>Corporate Governance</b>					

Sensitive to the environment in which we operate?				
Alert to commercial, political, technological, legal and social changes taking place around us?				
Cohesive with a strong sense of unity?				
Set objectives, define policy and develop a strategic plan?				
Ensure the senior manager provides satisfactory leadership, planning, organisation, control and succession?				
Have systems in place to monitor the performance of the senior manager, senior staff and volunteers?				
Monitor the performance of the organisation against agreed short and long-term goals?				
Ensure present plans and actions provide for the organisation's continuity?				
Focus on future as well as historical data?				
<b>Questions</b>	<b>Yes</b>	<b>No</b>	<b>Comments/Actions</b>	

Maintain a balance between operational targets and strategic direction?					
Rely upon professional or expert advice?					
Keep ourselves informed about the activities of the organisation?					
Convey the image that integrity and effective control cannot be compromised?					
Have a formal Code of Conduct which defines acceptable standards of personal behaviour for the organisation?					

<b>Checklist 2: Meetings review</b>		<b>DIRECTOR'S NOTE</b>	
To be used when convening general meetings of your organisation. Tick 'Yes' or 'No' to indicate the status in your organisation.		This checklist should be used by the Board in conjunction with your organisation's Constitution or rules.	
<b>Questions</b>		<b>Yes</b>	<b>No</b>
<b>Meeting Review</b>			
Do we have the power to convene the meeting?			
Has the purpose for the meeting been communicated to members?			
Have all preparation tasks been completed:			
■ Drawing up the agenda?			
■ Physically arranging the venue and admission?			
■ Notice correctly issued?			
■ Are proxies allowed? If so, what rights do they have?			
■ Reviewing minutes of last meeting and note matters arising?			
<b>Questions</b>		<b>Yes</b>	<b>No</b>
<b>Comments/Actions</b>			

<ul style="list-style-type: none"> <li>■ Noting apologies and observers (if any)?</li> </ul>			
<ul style="list-style-type: none"> <li>■ Ensuring any material required such as ballots, proxies are prepared?</li> </ul>			
Notice requirements			
Does the notice comply with statutory/constitutional requirements:			
<ul style="list-style-type: none"> <li>■ State the type of meeting to be held?</li> </ul>			
<ul style="list-style-type: none"> <li>■ State the date, time and place of meeting and its business?</li> </ul>			
<ul style="list-style-type: none"> <li>■ Include any motions to be discussed/voted on at the meeting?</li> </ul>			
<ul style="list-style-type: none"> <li>■ State that the notice is issued on the authority of the body empowered to call the meeting?</li> </ul>			
<ul style="list-style-type: none"> <li>■ Is sent to every person entitled to receive it?</li> </ul>			
<ul style="list-style-type: none"> <li>■ Is sent within the prescribed time (usually 21 days notice required)?</li> </ul>			
<ul style="list-style-type: none"> <li>■ Detail technology to be used if necessary to use multiple venues?</li> </ul>			
<ul style="list-style-type: none"> <li>■ Conducting the meeting:</li> </ul>			
<ul style="list-style-type: none"> <li>■ Is there a quorum present?</li> </ul>			
<ul style="list-style-type: none"> <li>■ If not, has the meeting been adjourned?</li> </ul>			

Questions	Yes	No	Comments/Actions
<b>Meeting Review</b>			
■ Does the Chair have the power to adjourn the meeting?			
■ Can the members adjourn the meeting?			
■ Has voting been conducted according to the organisation's Constitution?			
■ Do we know how many votes can be cast per member?			
■ Can voting powers be suspended?			
■ Will voting be determined by a show of hands?			
■ If not, will voting be determined by a poll?			
■ Do we have the power to vote at meetings?			
Duties of the Chair:			
■ Do we understand the duties and powers of the Chair under the Constitution?			

**Director checklist: Responsibilities**

Points to remember

Use this checklist to review the information in the 'Director responsibilities' section.	Tick to indicate understanding		
	Yes	No	Limited
<b>Primary duties of care:</b>			
To exercise powers granted honestly and for the purposes for which they were conferred and not for collateral purposes			
To act honestly and in good faith in the interests of the organisation as a whole			
To exercise the degree of care, skill and diligence that a reasonable person in a like position would exercise in the organisation's circumstances			
To avoid any actual or potential conflict between the obligations owed to the organisation and a Director's personal interest or other duties			
To keep confidential information obtained, and to disclose advantages or business opportunities acquired, in the course of office			
To prevent insolvent trading by the organisation			
<b>General duties of care:</b>			
Duty to act for a proper purpose			
Duty of good faith and honesty			
Duty of care, skill and diligence			
Duties and obligations relating to conflict of interest			
Duty to avoid conflict and to disclose interests			
Duty to maintain confidentiality			
Insolvent trading			
Limited liability			
Organisational administration:			
The Constitution			
The function, composition and structure of the Board			
The role of the Director			
The role and function of committees			
The role and function of the Chair			
<b>Director checklist: Responsibilities</b>			
Points to remember			
	Yes	No	Limited

Finance and administration			
Strategy and planning			
The separation between governance (Board) and management, i.e. no overlay or joint roles			

### Director checklist: Know your business

Points to remember

Use this checklist to review the information in the 'Know your business' section.	Tick to indicate understanding		
	Yes	No	Limited
The role of the Board:			
Setting directions for the organisation			
Setting guidelines for staff			
Ensuring safeguards are in place			
Establishing reporting procedures			
Developing long-term financial plans			
Developing succession plans			
Setting an ethical framework			

## Director checklist: Know your business

Points to remember

Use this checklist to review the information in the 'Being an effective Board' section.	Tick to indicate understanding		
	Yes	No	Limited
Board composition and a skills-based Board			
Board independence			
Working with sub-committees			
Appointing and selecting Directors			
Board succession planning			
Induction and training for Directors			
Board performance reviews			
Governance characteristics:			
Independence. Our system is based on independent views and opinions, objective assessment and is free from constraints of internal or external influence.			
Transparency and disclosure of information and decision-making. Our system is 'open' to relevant stakeholders in terms of strategy, decision-making and financial and operational performance.			
No conflict of interest. The people within the system have no actual or perceived conflicts of interest in decision-making or are not in positions to influence outcomes.			
Process based, not people based. Our system is not reliant on individual people and their skills to ensure the continuation/operation of the system.			
Linkages between responsibility and accountability. Those who are responsible for an activity or outcome are actually held accountable for it as well.			
Practical and reliable. Our system is not overly complex and is flexible to change.			

## Director checklist: The Board and the senior manager

Points to remember

Use this checklist to review the information in 'The Board and the senior manager' section.

Tick to indicate understanding

	Yes	No	Limited
The role of the Board in relation to the senior manager is to:			
■ Identify the responsibilities of the position			
■ Determine remuneration			
■ Recruit			
■ Delegate authority			
■ Establish reporting			
■ Maintain communication			
■ Conduct performance reviews			
■ The Board maintains accountability through identifying outcomes, setting policy and receiving reports			
The Board remains responsible for:			
■ Overall accountability for the organisation			
■ Setting governing policies			
■ The performance of the senior manager			
Performance reviews for the senior manager should include:			
■ Progress against plans			
■ Achievement of agreed outcomes			
■ The financial performance of the organisation			
■ Legal compliance			
■ Effective risk management			
■ Management of incidents			

## Director checklist: Meetings

Points to remember

Use this checklist to review the information in the 'Organising and conducting meetings' section.	Tick to indicate understanding		
	Yes	No	Limited
Group rules			
Set agenda			
Papers sent in advance			
Meeting procedures			
Facilitation of discussion			
Recording decisions			
Minute taking			
Requirements relating to general meetings under the relevant incorporation legislation			
Different methods by which a meeting may be called:			
■ By a Director or Directors			
■ By Directors upon request from members			
■ By members directly			
■ By the court			
Notice requirements are to be followed as set out in the Constitution of the organisation			
Must be held at a reasonable time and place			
Members must be given a reasonable opportunity to participate via the use of technology			
A quorum must be present			
Members voting rights are as per the Constitution			
Who has the discretion to adjourn meetings?			
The meeting has a Chair			
Who can appoint a proxy and its inclusions?			

## Director checklist: Meetings

### Points to remember

Methods of lodgement of a proxy			
Understand all statutory, constitutional and procedural requirements for the meeting			
Determine that the meeting is properly convened and constituted and that a quorum is present			
Inform himself/herself as to the business and objects of the meeting			
Preserve order in the conduct of those present			
Confine discussion within the scope of the meeting and within reasonable limits of time			
Decide whether proposed motions and amendments are in order			
Formulate for discussion and decision, questions which have been moved for the consideration of the meeting			
Decide points of order and other incidental matters which require decision at the time			
Putting relevant questions to the meeting and taking a vote on them			
Declaring the result			
Causing a poll to be taken if duly demanded			
Handling all matters in an impartial manner			
Dealing with the record or minutes in the proceedings			
Adjourning the meeting where justified			
Declaring the meeting closed when its business has been completed			

# Appendix 1: Exercises

## **User information**

These exercises can be used either in a workshop setting or by individual Board members to identify areas for potential improvement.

## Exercise 1: Board profile and succession planning

The objectives of the following exercise are to assist you to develop awareness and greater understanding of:

- The appointment and selection of Directors
- The role(s) and function(s) of committees
- The role and function of the Chair.

This exercise seeks to help identify desired characteristics of the Board (across skills, representation and background) and desirable skills, representation and background of potential Directors.

The first column is designed to capture the aggregate skills of current Directors. Please write N/A if you consider the skill not applicable.

The second column is designed to identify gaps in skills that are needed by the Board to operate at maximum efficiency. Write High or Low depending upon your organisation's needs. These then provide the key competencies sought in potential director/committee member candidates.

- The exercise can be used for a structured succession planning process to:
- Establish a succession planning sub-committee of the Board
- Identify retirement dates of existing Directors
- Identify emerging or existing appropriate skill gaps
- Identify potential candidates.

The checklist is divided into the following areas:

1. a. Skills
2. b. Diversity
3. c. Background experience
4. d. Personal attributes.

It should assist you in capturing a snapshot of your current Board's skills, representation and background. You should then compare these against what you and your Board consider the skills, diversity and background of an optimum Board for your organisation.

Skill in the following areas		Skills of current Board High/Low	Desired skills of prospective Directors Yes/No
Organisational and financial management			
Special program focus, e.g.:	<input checked="" type="checkbox"/> Disability		
	<input checked="" type="checkbox"/> Community development		
	<input checked="" type="checkbox"/> Training		
	<input checked="" type="checkbox"/> Employment		
	<input checked="" type="checkbox"/> Health		
	<input checked="" type="checkbox"/> Public policy, etc		
Administration			
Business/corporate planning			
Finance:	<input checked="" type="checkbox"/> Accounting		
	<input checked="" type="checkbox"/> Investments		
Fundraising (both professional fundraisers and those with leverage in getting funds)			
Government regulations			
Government representative			
Legal			
Marketing/PR			
Personnel or human resources			
Physical plant (architect, engineer)			
Strategic or long-range planning			

Diversity		Current Board Yes/No	Desired Board Yes/No
Gender:	Female		
	Male		
Special needs groups:	Aboriginal/Torres Strait Islander		
	Non-English speaking background		
	People with disability		
Geographical location:	City		
	Suburbs		
	Regional		

Background Experience		Current Board Yes/No	Desired Board Yes/No
Financial position:	Self-employed		
	Salaried		
Boards and committees			
Membership of like organisation			
Program/education			
Development			
Finance			
Audit			
Other			
Length of Board service:	■ Over ten years		
	■ 6–10 years		
	■ 2–5 years		
	■ Less than 2 years		

Personal attributes	Current Board Yes/No	Desired Board Yes/No
---------------------	-------------------------	-------------------------

Good networks		
Numerically minded		
Research skills		
Business sense		
Analytical		
Visionary		
Organisational awareness		
Critical faculty		
Flexibility		
Change oriented		
Effective communicator		
Integrity		
Independent		
Risk taker		

## Exercise 2: The responsibility matrix

This exercise seeks to determine who in your organisation should be responsible for the following activities. If no one is, then write none in the other column. If no one is responsible, consider whether someone should be and how this should be addressed.

Please note the activity and the level of activity will vary from organisation to organisation and what may apply for a large organisation will not apply for a smaller organisation even in the same service delivery area.

Activity/Responsibility	Chair	Senior manager	Board	Committee	Other
Recruiting committee chairs					
Budget proposal					
Budget approval					
Organisation's spokesperson					
Running meetings					
Lobbying					
Marketing					
Engaging the senior manager					
Terminating the senior manager					
Strategy					
Policy development					
Policy approval					

### Exercise 3: Measuring the effectiveness of your Board

Complete the following questionnaire as an individual Director and together as a Board. This exercise should enable you to determine how effective your Board is in achieving its short and long-term goals, managing conflicts and most importantly communicating between itself and its key stakeholders.

Are your Board's short and long-term goals clear?					
Yes / No		If yes, how are they communicated? If no, why not?			
Is your Board's role clear?					
Yes / No		If yes, how is it set and communicated? If no, why not?			
How well does your Board resolve problems?					
1 low	2	3 avg	4	5 high	If you rated 1 or 2, how can this be improved?
Does your Board manage conflict productively?					
Yes / No		If yes, how and why and by whom? If no, how is it managed?			
How well does your Board make decisions?					
1 low	2	3 avg	4	5 high	If you rated 1 or 2, how can this be improved?

What is the quality of communication among Directors?					
1 low	2	3 avg	4	5 high	If high, what tools do you use to facilitate this communication?
What is the quality of communication between Board and staff?					
1 low	2	3 avg	4	5 high	If high, how is this communication facilitated?
What is the quality of communication between Board committees and staff?					
1 low	2	3 avg	4	5 high	If high, how is this communication facilitated?
Does the Board receive sufficient information upon which to base its decisions?					
Yes / No		If no, why not?			
If you could change two aspects of the way the Board works together what would they be?					
1.					
2.					

# Appendix 2: Templates

## Sample template for scheduling meeting agenda items

Identify items to be covered at your Board or management committee meetings.  
Indicate the frequency of each item and who is responsible for tabling it at the meeting.

This schedule can be used prior to each meeting to develop the meeting agenda  
(refer to page 50).

AGENDA ITEM	PROPOSED FREQUENCY	RESPONSIBILITY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC
Declaration of conflict of interest	All meetings	All members	X	X	X	X	X	X	X	X	X	X	X	X
Senior Manager Report	All meetings	SM	X	X	X	X	X	X	X	X	X	X	X	X
Financial Report	All meetings	Financial Rep	X	X	X	X	X	X	X	X	X	X	X	X
Compliance report *	All meetings	SM	X	X	X	X	X	X	X	X	X	X	X	X
Performance indicators	All meetings	SM	X	X	X	X	X	X	X	X	X	X	X	X
Complaints and incident report	All meetings	SM	X	X	X	X	X	X	X	X	X	X	X	X
OH&S report	All meetings	SM	X	X	X	X	X	X	X	X	X	X	X	X
Staff Satisfaction Survey	Annually	SM						X						
Customer Satisfaction Survey	Annually	SM						X						
External reports (e.g. quality assessments, accreditation, registration etc)	As appropriate	SM												
Annual Acquittal	Annually	SM	X	X	X	X	X	X	X	X	X	X	X	X
Funding agreements	Annually							X						
Insurance Review	Six monthly				X									X

This table can be used to schedule reports and activities over the year. This

ensures that they are not inadvertently omitted from the agenda. The above content is a suggestion of items which might be included.

The following sample meeting agenda demonstrates how the information is extracted from this schedule onto the meeting agenda.

\* Some organisations have a compliance report which contains items which are essential to report against each meeting. The above table (items identified as “all meetings”) demonstrates an example of items which might be included in a compliance report.

## Sample meeting agenda

This example is drawn for up for June, using the schedule on the previous page.

Please note standing agenda items are in bold.

(Name of Organisation)

Board Meeting Agenda

(Month Day, Year)

(Venue)

(Planned Starting Time to Ending Time)

	ITEM	RESPONSIBILITY
1	<b>Declaration of conflict of interest</b>	Chair
2	<b>Senior Management Report</b>	Chair
3	<b>Financial report</b>	Chair
4	<b>Compliance report</b>	Chair
5	<b>Performance indicators</b>	
6	<b>Complaints and incident reports</b>	Senior manager
7	<b>OHS Report</b>	Finance Officer
8	(Key points only) Including customer satisfaction survey findings and actions	Senior manager or other manager
9	Annual acquittal	Senior manager
10	Funding agreements	
11	Insurance review	
12	Go through the previous meeting minutes and add a list of outstanding items for actioning.	According to previous minutes