



# Governance for Advisory Committees and Affiliated Clubs



# Governance Defined

- ▶ Governance includes the management, rules, relationships, policies, systems and processes whereby authority within an organisation is exercised and maintained. Simply put, an organisation's governing body:

- ▶ Controls the way its business is organised, managed and operated.
- ▶ Defines who makes the decisions, what policies or processes are adopted, how risks are managed and how the organisation remains financially viable.
- ▶ Encompasses - accountability, stewardship, leadership, and direction.



- ▶ What does this mean for Advisory Committees and Affiliated Clubs of Dogs SA?
  - ▶ The Dogs SA Council **DIRECTS** (with advice from Advisory Committees) and does not **MANAGE** the organisation.
  - ▶ Affiliated Club Committees are responsible for directing their own organisations.

# Good Governance - Advisory Committees and Affiliated Clubs

- Focusing on *effective* strategies
- Implementing *relevant* business risk management
- Undertaking *rational* and *structured* decision making
- Being *ethical* in its conduct
- Knowing your *roles* and *responsibilities*
- Enhancing organisational *performance*
- Committing to *compliance* requirements
- Embracing *succession* planning
- Directing a *quality* EO
- Supporting an *experienced* Chairperson
- Monitoring their own *effectiveness*
- Utilising where appropriate *effective* Terms of Reference



# Typical Roles



## *Accountability* to stakeholders

- Regularly report to members, funding sources, clients and regulators.
- Always act in the best interest of the Advisory Committee (Dogs SA) or the Affiliated Club. (*Self interest must yield to organisational interest. Avoid conflict of interest.*)
- Always practice your duty of care. (*Listen, analyse and debate issues.*)
- Always act for proper purpose.
- Hold regular Committee/Council/Board meetings, AGM, and distribute Annual Reports.



# Typical Roles



## *Accountability* to stakeholders

- Support major changes to organisational structure, skill development and customer service standards.
- Review all audit reports and pursue justifiable recommendations.
- Be well informed when making decisions (*legal requirements*).
- Regularly review the Constitution.
  - Does it say 'not for profit'
  - Does it state no distribution to Directors
  - Does it meet the legislated 'winding up' requirements
- Regularly review related policies.



# Typical Roles



## Setting *strategic* direction

- Establish the Strategic Direction - vision, mission and values.
- Develop, implement and review the strategic plan.
- Promote the organisation – which may include assisting attract funds and non-financial support, consider alliances, networks and advocating for members and clients.

# Typical Roles



Setting *strategic* direction

- Market and Business Development - Assist the staff/volunteers for the ultimate benefit of members.
- Seek member needs/views when forward planning, making major decisions and checking overall performance.

# Typical Roles



Some Key policy areas are-

- Policy on Policies
- Committee/Council/Board Charter
- Governance
- Conduct and ethics
- Committee/Council/Board member induction

Setting Board level *policy*



# Typical Roles



- Delegation of Authority
- WHS
- Risk Management
- Consumer Rights
- Committee/Council/Board administrative policies, where required

Setting Board level *policy*

# Typical Roles



## Monitoring key *performance* & results

- Conduct annual Board appraisal. *(for the organisation and Board)*
- Appraise and motivate the EO *(Regularly, review employment contract and position description?)*
- Monitor progress of the strategic plan. *(Consider the style of performance reporting against the plan, via EO)*



# Typical Roles



## Monitoring key *performance* & results

- Review and implement the results of various external audits.
- Attract and blend diverse skills. *(Avoid cloning and encourage different views)*
- Be prepared to use external guidance where skills don't exist on the Committee/Council/Board.  
*(Defer important issues to invite speakers with specialist expertise, co-opt specialist or receive research reports)*



# Issues...

Issues often raised as a result of reviewing **accountability, performance, strategy, policy** are...

- Confidentiality
- Conflict of Interest
- Transparency
- Knowledge
- Legal implications



# NFP Accountability

## ➤ Range of Legal Structures

- Unincorporated Association
- **Incorporated Association**
- Company Limited by Guarantee
- Cooperative
- Charitable Trust
- An Organisation formed by Royal Charter or Special Act of Parliament
- Indigenous Corporation



# NFP Accountability

## ➤ Legal Framework

- Associations Incorporation Act 1985 (State-South Australia)
- Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Commonwealth)
- Corporations Act 2001 (Commonwealth)

## ➤ Regulators

- Consumer and Business Services (CBS), formerly OCBA; in South Australia
- Office of the Registrar of Indigenous Corporations (ORIC)
- Australian Securities and Investment Commission (ASIC)
- Australian Charities and Not for Profit Commission (ACNC)

## ➤ Taxation Status

- Australian Taxation Office (ATO) - Taxable/Non-taxable, FBT, GST, PBI, DGR; and more...



# Taxation [ATO] Law – Directors Penalties

## Australian Taxation Law...

### ➤ 'Strengthening Director obligations'

- Disincentives for companies to avoid their tax law and employee obligations.
- These changes are intended to deter directors from engaging in fraudulent phoenix activities and to improve the regulatory environment for businesses that comply with the tax and superannuation laws.



**Australian Government**  
**Australian Taxation Office**

### ➤ Extending Director penalties

- Directors' penalties apply to unpaid tax and superannuation guarantee obligations. If you are a new Director and the organisation hasn't met its obligations; once you've been there for 30 days, you'll also become personally liable for any penalty imposed.
- Directors cannot discharge their director penalties by placing their company into administration or liquidation.
- Directors and their associates are liable to PAYG withholding non-compliance tax ...where the organisation has failed to pay amounts withheld to the Commissioner.



# NFPs

*Exist to meet the needs of...*

- Members
- Client Groups

*But in accordance with the...*





# Director – Basic responsibilities

- Attendance
- Participation
- Confidentiality

*However, there is more...*



# What are these legal duties...what does the law expect?

Board/Council members **must** comply with and understand:

- Duty to act in good faith and for proper purpose
- Duty to act with care, skill and diligence (including the duty to prevent insolvent trading)
- Duty not to dishonestly use position or information; and
- Duty to avoid conflicts of interest

**OR** simply stated, have:

- Awareness of **duties**
- **Financial** literacy
- Ability to identify **risks** to Members and the organisation
- Ability to monitor **performance**

*These expectations are best shown through specific court cases...*



# Directors' duties...

- Act in accordance with the relevant constitution
- Disclose any potential conflict of interest
- Maintain confidentiality
- Act in good faith and for a proper purpose
- Act honestly and industriously
- Act with care and diligence
- Ensure all decisions made are to the advantage of your organisation
- Provide adequate information to authorised people or members
- Do not trade while insolvent
- Do not take advantage of your position to further your own needs
- Do not mislead authorised people or members
- Never use information gained through your privileged position to advantage a family member/friend/associate
- Never knowingly place the Committee/Council/Board in a potentially litigious position



# NFP Governance and Decision Making

- Consider...
  - Legal action against NFP governing bodies is rare
  - Be an active Director and do not be put off by legal requirements or legal actions
  - Common sense standards apply - requiring care and honesty
- Keep these questions in mind as part of Committee/Council/Board decision making
  - Is this decision in the best interest of the organisation?
  - Do I have all the information needed to make an informed decision?
  - Is this decision achieving the organisation's purpose?
  - Do I have a conflict of interest as I engage with this decision?
  - Can the organisation fund this decision?



# Role of Director



Act in good faith and...

- in the best interests of your organisation
- with care and diligence.



# Committee/Council/Board Risk Management



- Insurance
  - Director's and Officer's Insurance
  - Public Liability Insurance
- Deed of Access, Indemnity and Insurance
  - Access to company books and records
  - Indemnity against legal costs and liabilities
  - Director's and Officer's Insurance
- Although public liability insurance will cover you against claims for wrongful acts, individual Directors are not covered, and will need to be covered with director's insurance.
  - An incorporated association must indemnify its office holders. This will protect the decisions they have made in good faith, on behalf of the association, from liability.



# Committee/Council/Board Risk Management



- Directors can be sued (as individuals) for acts of negligence.
  - For example, if a Director negligently gives wrong advice or dismisses a staff member without following proper processes, they may be sued. If this happens, and the case against them is proven, the law says personal assets of the negligent Director can be seized to meet any damages.

# Organisational (NFP): Risk Exposure?

## ➤ *Financial risks*

- Loss of income
- Unauthorised expenditure
- Fraud
- Waste of resources

## ➤ *Management risks*

- Lack of strategic planning
- Poor management information systems
- Human resource management
- Financial management
- Marketing debacles

## ➤ *Core operating risks*

- Political risk (funding cuts)
- Loss of reputation
- Loss of donor support
- Poor services
- Tendering





# Risk Management - What Types?

- Business Risk Planning
- Business Continuity Planning
- Disaster Recovery Planning
- Pandemic Risk Planning



# Relationship between strategic planning and continuous improvement



# Getting the skills right

- NFP Boards may have trouble attracting Directors on a *voluntary basis*. That is attracting people:
  - With financial, legal and corporate management expertise that is required for the organisation to operate successfully in a funding environment.
  - With experience or skills with the services provided by the organisation.



# Role of Directors



- Act in good faith and...
- in the best interests of the incorporated body and organisation
- Act with care and diligence..



# Applying the skills



- Chair
  - Do you know how to chair a meeting?
- Secretary
  - Do you understand the role?
- Treasurer
  - Do you have financial acumen?
- Public Officer
  - Is the person registered and knows their responsibilities?
- Spokesperson
  - Who is it and everyone knows?
- Specialists
  - How and when do you get them involved?..



# Meeting Processes and Duties

- Agenda Preparation
- Chairing
- Minutes
- Conducting effective meetings
- Receive and act on reports
- Role and effectiveness of sub-committees..



# Sub-Committees



- Can streamline Committee/Council/Board meetings by not dealing with detail
- Provide a way to make practical use of the skills of Directors/Members
- Can include 'outside' people with specialist knowledge, including staff
- Define sub-committee responsibilities in a brief (terms of reference) approved by the Committee/Council/Board ..



# Sub-Committees



- Report back to the Committee/Council/Board with recommendations.  
Providing relevant support information.
- **Don't** re-discuss the detail as a Committee/Council/Board..



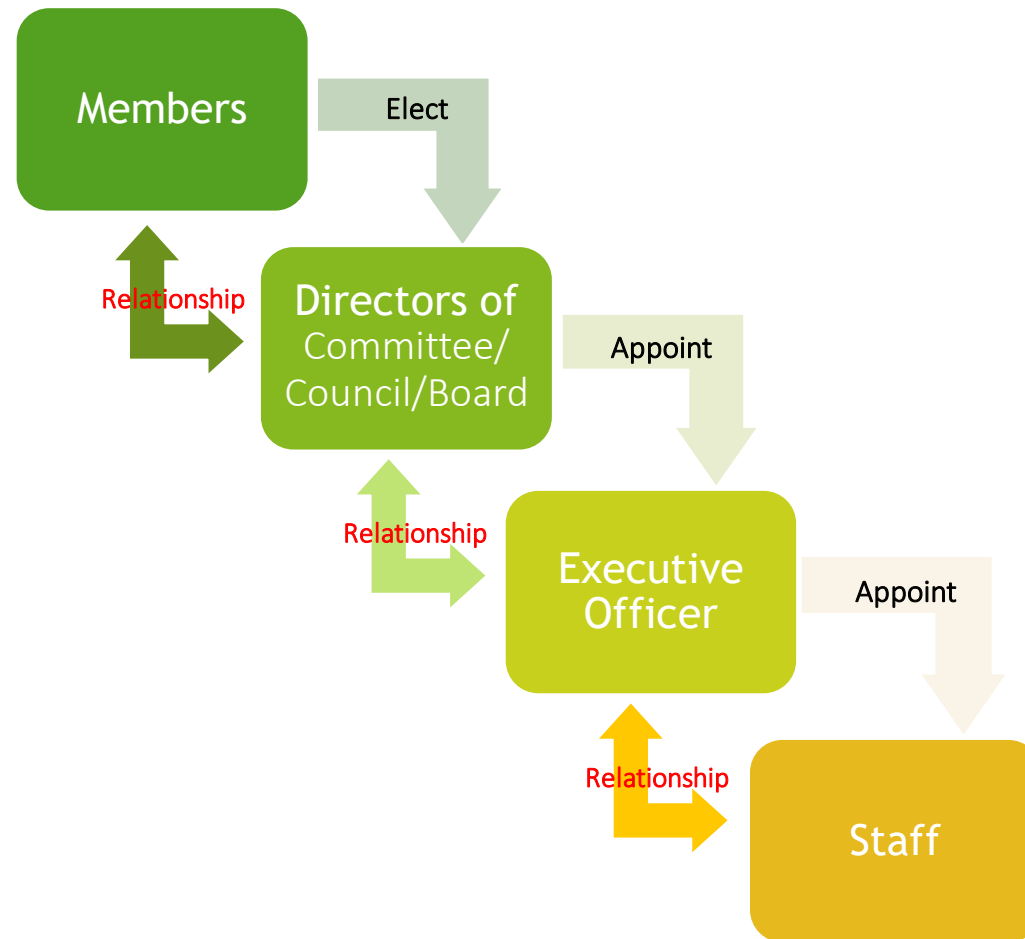


# Issues for a NFP Committee/Council/ Board

- Time commitment
- Scheduling / running of meetings
- Effective use of agendas
- Directors NOT being involvement in operational issues -
  - *Always remember..*



# NFP Governance



# Director Induction/Orientation Pack <sup>(1)</sup>

- Director Induction & Orientation – set a date
- List of continuing members
- Director job descriptions
- Example - Committee/Council/Board Agenda and Minutes
- Role of Director
- Role of Office Bearers
- List of Standing Committees/Sub-committees and their scope
- Organisation Chart showing delegations
- Constitution



# Director Induction/Orientation Pack <sup>(2)</sup>

- Policy and procedures manual including:
  - Risk management policies
  - Grievance policies
  - WH&S Policy
- Last year's annual report
- This year's budget
- Current Strategic Plan
- Organisation's Web Site URL etc
- Information about Directors and Officers Insurance
- Nomination form for upcoming AGM



# Director Induction/Orientation Pack <sup>(3)</sup>

- Meeting Dates
- Program reporting dates
- Budget meetings and reporting dates
- Strategic Plan Review
- Committee/Council/Board Performance appraisal dates
- EO Performance Appraisal date



# Performance Measures & Reporting

- Define and use performance indicators
- Financial target, indicators and reporting
- Non-financial indicators
- Triple bottom line reporting
  - Financial
  - Organisational/Governance
  - Environmental/Social



# Committee/Council/Board Performance <sup>(1)</sup>

Strategic Plan	Yes	No
Is there a current strategic plan (i.e., a plan for the current period)		
Was there consultation with a sample of stakeholders?		
Does the plan drive Committee/Council/Board and EO decision-making and priorities?		
Is the plan reviewed at least annually by the Committee/Council/Board?		
Are internal and external changes addressed during the review?		
Has the plan been communicated to all stakeholders and staff?		
Have too many operational actions been created by the Strategic Plan?		
Did the Committee/Council/Board check with the EO that the workload was feasible?		



# Committee/Council/Board Performance <sup>(2)</sup>

Financial Position and Budget	Yes	No
Does the Committee/Council/Board receive monthly P&L and Balance Sheet Reports		
Does the P&L compare 'actual' to 'budget' and show 'year to date'?		
Is a bank reconciliation undertaken prior to producing the report?		
Are major budget variations explained clearly in monthly reports?		
Are cash flow forecasts and options presented when emerging financial impacts may be significant?		
Are major capital items presented and easily identified?		
Are financial reports easy to read and understand?		
Does the Committee/Council/Board have someone with financial qualifications who is involved in the Committee/Council/Board review/audit of financial performance?		





# Committee/Council/Board Performance <sup>(3)</sup>

Funding and Service Agreements	Yes	No
Is progress against the agreement objectives/targets reported to the Committee/Council/Board frequently enough?		
Is the receipt and acquittal of funds identified in financial reports?		
Does the organisation report (as required by any funding agreement) to the funding agency and the Committee/Council/Board?		
Would the Committee/Council/Board advocate on behalf of its clients, even where this may place government funding at risk or might clash with government policy?		
The Committee/Council/Board has a working understanding of its industry sector and the standards that underpin the sector?		

# Committee/Council/Board Performance <sup>(4)</sup>

Client needs and satisfaction levels	Yes	No
Services to clients are reasonably accessible and are equitable?		
Client communication is frequent and effective?		
Client information is treated with appropriate confidentiality?		
The Committee/Council/Board uses its client feedback process to shape service delivery, strategy and decision making?		



# Committee/Council/Board Performance <sup>(5)</sup>

Audit Reports	Yes	No
The Committee/Council/Board is notified in advance by the EO of any audit and its temporary impact on the existing workload.		
The Committee/Council/Board receives a complete copy of audit results or reports.		
The Committee/Council/Board or its sub-committee works closely with the Auditor during the annual financial audit.		
Post report, corrective actions are developed and implemented.		
The Committee/Council/Board monitors progress and/or the outcomes of corrective actions.		
The Committee/Council/Board reviews audit reports as opportunities for continuous improvement and risk management?		



# Committee/Council/Board Performance <sup>(6)</sup>

Marketing / Public Relations / Media	Yes	No
The Committee/Council/Board has a policy on media liaison?		
As part of its PR and networking roles, could the Committee/Council/Board do more to raise awareness and support for the organisation?		
The President/Chair and/or EO have developed a relationship with the local media?		
The Committee/Council/Board clearly understands its Sustainable Competitive Advantage?		



# Committee/Council/Board Performance <sup>(7)</sup>

Risk Management	Yes	No
The Committee/Council/Board has a policy on Risk Management?		
Major risks (only) at both Committee/Council/Board level and administrative level are identified and documented in a risk register.		
Responsibility for mitigating major risks (not all risks) is assigned?		
The Committee/Council/Board monitors risks and their associated treatment at least annually?		
All Committee/Council/Board members understand their cover for Public Liability and Professional Indemnity Insurance?		



# Committee/Council/Board Performance <sup>(8)</sup>

Council Practices	Yes	No
Committee/Council/Board has 'Delegation of Authority' and 'Conflict of Interest' policies.		
Committee/Council/Board has written terms of reference for sub-committees.		
All Directors participate and contribute during meetings.		
Agenda usually contains briefings or short reports.		
Directors' always read their agenda/reports before meetings.		
Minutes are timely, accurate, signed and securely filed.		
Communication at meetings is usually clear and comprehensive.		
Training /information sessions for Directors occur at least annually.		
Meetings usually generate no more than 8 actions for the EO.		
Committee/Council/Board has succession planning/process for President/Chair/EO roles.		
Directors' practice private frankness and public solidarity.		
Committee/Council/Board has an effective induction process for new Directors.		



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*Thank you*

