

Governance in Sport - Principle 1: Clear delineation of governance roles

The ASC recognises that different sporting organisations operate under different governance structures. While not advocating the adoption of any single model, the ASC does advocate that each structure should be clearly documented with a clear delineation of powers and responsibilities of each body involved. Further, **THERE SHOULD BE NO OVERLAP IN THE POWERS OF ANY TWO BODIES OR INDIVIDUALS** in a governance structure.

1.1 The ASC advocates that the management powers be placed in a board which has the power to exercise all the powers of the organisation except those powers that the Act or Constitution requires to be exercised in General Meeting. The ASC does not endorse a governance structure featuring both a Board and another body, whereby this other body (usually called a Council) assumes some Board functions.

1.2 All National Sporting Organisations (NSOs) must be incorporated either as associations under their appropriate state/territory Associations Incorporation Act or as a company limited by guarantee under the Corporations Act 2001 (Cwlth). Each Act imposes certain requirements that must be met. It must also be noted that, regardless of the Act under which the association is incorporated, if an NSO carries on business in a state other than that in which it is incorporated it is required to be registered under the Corporations Act as a registrable Australian body. This registration imposes additional administrative requirements on the Association.

1.3 The incorporated body will have a constitution, which may be changed from time to time by the members. Each sporting organisation should give detailed consideration as to how people and/or organisations may become the members of the incorporated national body. The members will elect the board of directors (board). The constitution of the incorporated body will state the voting power of each member in this regard. The key governance role of the organisation under each of the Acts rests with this board of directors, who must act in accordance with the requirements of the relevant Act, within other federal and state laws and the constitution of the incorporated body.

1.4 THE GOVERNANCE STRUCTURE SHOULD FEATURE A CLEAR SEPARATION OF POWERS AND RESPONSIBILITIES BETWEEN THE BOARD ('MIND' OF ORGANISATION) AND THE CEO AND HIS/HER STAFF ('HANDS' OF ORGANISATION). THIS CLARITY OF POWERS AND RESPONSIBILITIES MUST ALSO APPLY TO THE VARIOUS BOARD AND MANAGEMENT COMMITTEES. The governance structure should also recognise that individual directors, the CEO (or similar), his/her staff, board committees and management meetings hold no authority to act on behalf of the organisation by virtue of their position alone. All authority rests with the board, which may delegate authority to any person or committee. Each such delegation should be clearly documented in a delegations manual or similar. Normally, there shall be significant delegations to the CEO.

1.5 The ASC advocates that each board should:

- **Set the broad strategic direction of the organisation through appropriate consultation with stakeholders.** This includes determining the organisation's PURPOSE, CORE VALUES AND THE ETHICAL FRAMEWORK AS WELL AS KEY OBJECTIVES AND PERFORMANCE MEASURES.

- Appoint, direct, support professional development, evaluate the performance and determine the remuneration of the CEO. Where necessary, the board may be called upon to dismiss the CEO.
- Monitor the financial and non-financial performance of the organisation.
- Ensure financial and non-financial risks are appropriately managed.
- Ensure the organisation complies with all relevant laws, codes of conduct and appropriate standards of behaviour.
- Provide an avenue for key stakeholder input into the strategic direction of the organisation.

1.6 The ASC advocates that each board should be structured to reflect both the constituency it represents and the complex operating environment facing the modern sporting organisation. Normally, it is envisaged that a board will:

- Comprise between 5–9 directors. The number of directors on a board should reflect the size and level of activity of the organisation.
- **HAVE A SUFFICIENT BLEND OF EXPERTISE AND SKILLS NECESSARY TO EFFECTIVELY CARRY OUT ITS ROLE. AS SUCH THE ASC ADVOCATES A BOARD WITH THE NECESSARY SKILLS TO CARRY OUT ITS GOVERNANCE ROLE RATHER THAN A REPRESENTATIVE BOARD.**
- HAVE THE ABILITY TO MAKE A LIMITED NUMBER OF EXTERNAL APPOINTMENTS TO THE BOARD TO FILL SKILLS GAPS.
- INSTITUTE A STAGGERED ROTATION SYSTEM FOR BOARD MEMBERS WITH A MAXIMUM TERM IN OFFICE TO ENCOURAGE BOARD RENEWAL WHILE RETAINING CORPORATE MEMORY.
- **Be broadly reflective of the organisation’s key stakeholders, but not at the expense of board skills mix. When directors do represent a constituency, they must never allow representation to become advocacy at the expense of the organisation as a whole.**

1.7 In accordance with Commonwealth Government policy and the efforts of international sporting bodies to increase the representation of women in key decision making and leadership positions, the ASC advocates that sporting organisations consciously work towards increasing female representation on their boards. Whilst being mindful of expertise and skill requirements, NSOs should be aiming for equal representation of men and women on their boards. NSOs should use every opportunity to move towards this goal and should make significant progress towards this by June 2005.

1.8 Where two bodies are amalgamating, the ASC advocates an interim board arrangement in order for both parties to be confident about the future direction and priorities of the amalgamated body. In the interim arrangement, the board of the new organisation would include equal representation drawn from the boards of the amalgamating bodies or representatives nominated by each of the amalgamating groups’ interests. This interim arrangement would operate for a finite period of time.

1.9 The ASC advocates that the board outline the role of individual directors/board members, including (at a minimum):

- The fiduciary duty of directors to act in the interests of the members as a whole and not to represent individual constituents. Thus, once elected the board should have the ability to operate independently in the interests of the organisation as a whole, free from undue influence.
- The legal duties of individual directors, including the requirement of directors to:
 - act in good faith and for a proper purpose
 - exercise due care and diligence
 - ensure the organisation does not continue to carry on its business while insolvent
 - meet the requirements of various other federal and state laws which directly impact on the organisation.
- A code of conduct or policy specifying the behaviour expected of directors.
- A conflict of interest provision that specifies:
 - A director must disclose actual/potential conflicts of interest.
 - The process for disclosure of real or potential conflicts of interest disclosure.
 - A process that governs a director's involvement in any decisions with which she/he has a conflict of interest.
 - The requirement for a register of ongoing interest to provide a record of all potential conflicts.
 - Directors should not hold any other official position at state, regional, club level or corresponding administrative position. This is to ensure no actual or perceived conflicts of interest.
- Maintaining a register of Related Party Transactions.

1.10 The ASC advocates that the roles of key positions in the governance system are documented. Normally these positions will include:

Board

- Chair/President
- Directors
- Secretary

Management

- CEO

1.11 Unless very special circumstances are involved, the CEO will not normally be a director. This enables and supports a clear separation of powers between the board and management.

Governance in Sport - Principle 2: Effective governance processes

The ASC advocates that each BOARD SHOULD AGREE TO AND DOCUMENT A CLEAR SET OF GOVERNANCE POLICIES AND PROCESSES TO FACILITATE EFFECTIVE GOVERNANCE. THESE PROCESSES SHOULD REFLECT BEST PRACTICE and be subject to regular review.

2.1 The board should document its meeting process. Normally this will include:

- legal requirements (such as quorum, notice for calling a meeting, etc., as specified in the organisation's constitution);
- decision-making approach (consensus versus voting) and voting rights of attendees;
- protocol(s) for meeting conduct and director behaviour;
- logistical details such as meeting frequency, meeting location, timing of meetings, attendees, etc.

2.3 The board should prepare an agenda for each meeting. In addition, the board should agree how the agenda will be developed and the items for regular inclusion.

2.4 Board meetings should have appropriate documentation. This means issues submitted to the board should be in an appropriate and agreed form (a board paper) and be circulated sufficiently in advance of the meeting. The board should similarly maintain a clear record of decisions made through an appropriate and agreed minuting process.

2.5 The board should be provided with all relevant information on an issue to enable proper execution of directors' duties. The board, or any individual board member should also have the right to request, through the CEO, any additional information, eg financial reports to enable them to effectively carry out their duties.

2.6 The ASC advocates that each board plans its key annual activities and develops a corresponding board calendar.

2.7 EACH COMMITTEE ESTABLISHED BY A BOARD SHOULD HAVE A TERMS OF REFERENCE. This terms of reference should include, at a minimum:

- committee purpose
- authority delegated to the committee
- committee composition, including the appointment of a Chair
- reporting requirements
- delineation of the role of the committee and the role of management.
- *set out what they can't do as opposed to what they can; this makes it clearer*

Governance in Sport - Principle 3: Effective governance controls

The board is ultimately responsible for the success of the organisation it governs. The ASC advocates that each board clearly define its role in discharging this responsibility.

3.1 The ASC advocates that each board determine the process by which it will set the strategic direction, key objectives and performance measures as well as its core values and ethical framework.

3.2 The board should develop a protocol outlining expectations for board-management interactions. This will normally include:

- expectations regarding the use of a board member's networks/contacts;
- expectations regarding provision of advice to the CEO and management;
- a protocol for individual directors to acquire all information required for decision making and control.

3.3 The ASC advocates that each board has in place an effective and efficient monitoring and evaluation system. This will include financial and non-financial monitoring. In particular, each board should monitor outcomes of the implementation of the strategies as the basis for the evaluation of overall performance and reporting to members.

3.4 The ASC advocates that the board has in place an effective risk management strategy and process. This will require the board to take actions to identify key risks facing the organisation and ensure that risk management strategies are developed and actioned. The risk management system should comply with the Australian Risk Management Standard (AS/NZS4360:1999).

3.5 The board should also implement an effective compliance system. It is recommended that this compliance system comply with Australian Standard AS3806:1998 and require, at a minimum, that:

- the organisation complies with all relevant statutes, regulations and other requirements placed on it by external bodies;
- effective internal controls exist and there is full and accurate reporting to the board in all areas of compliance;
- the organisation is financially secure and is able to meet all its financial obligations when they fall due, in the normal process of business.

3.6 The ASC advocates that each board develop and document a regular (annual/six-monthly) performance review process for the CEO. While the detail of the performance review may be undertaken by a board committee, at some point in the process all directors should have an opportunity to review and comment on CEO performance.

3.7 The board must ensure an effective audit process is in place. The audit may involve internal and external auditors, and for large organisations, an audit committee of the board may be appropriate. An audit committee will only comprise persons who are not directly involved in management of the organisation.

3.8 Since all decision-making power rests with the board, the ASC advocates that each board **CLEARLY DOCUMENT ALL DELEGATIONS OF AUTHORITY TO THE CEO AND OTHER INDIVIDUALS, COMMITTEES OR GROUPS.** This document or delegations register, should be regularly reviewed and updated. It should be the subject of a formal board resolution.

Governance in Sport - Principle 4: Governance improvement

Each board should ensure that there is regular assessment of board performance and an effective board and individual director development program in place including mechanisms to respond to non-performing directors.

4.1 The board should ensure that its officers and directors have appropriate insurance cover.

4.2 The board should ensure all new directors undergo an appropriate induction process.

4.3 The board should ensure that a director's access to information is appropriately protected with a deed of access or similar.

Governance in Sport - Principle 5: Member responsiveness

The board should ensure it exercises leadership, integrity and good judgment, always acting in the best interest of the organisation as a whole, demonstrating transparency, accountability and responsibility to members.

5.1 THE BOARD SHOULD STRIVE TO ASCERTAIN THE INTERESTS, ASPIRATIONS AND REQUIREMENTS OF MEMBERS AND CREATE RESPONSES TO THESE IN THE FORM OF A NATIONAL STRATEGIC PLAN WITH ALIGNMENT BETWEEN THIS AND MEMBER PLANS.

5.2 Members of an organisation should have the ability to remove board members (or a board as a whole) and change the constitution should they see fit.

5.3 Board members have no voting rights beyond those of regular members or by virtue of their position. Where the membership of an organisation comprises other organisations, board members should not be eligible to vote at General Meetings or Annual General Meetings.

5.4 The board should provide the members with a comprehensive annual report outlining how they fulfilled the governance roles of the organisation, the achievements of the organisation, the aspirations of the organisation and sufficient financial information so that members can make a judgment as to how effectively the board is fulfilling its role.