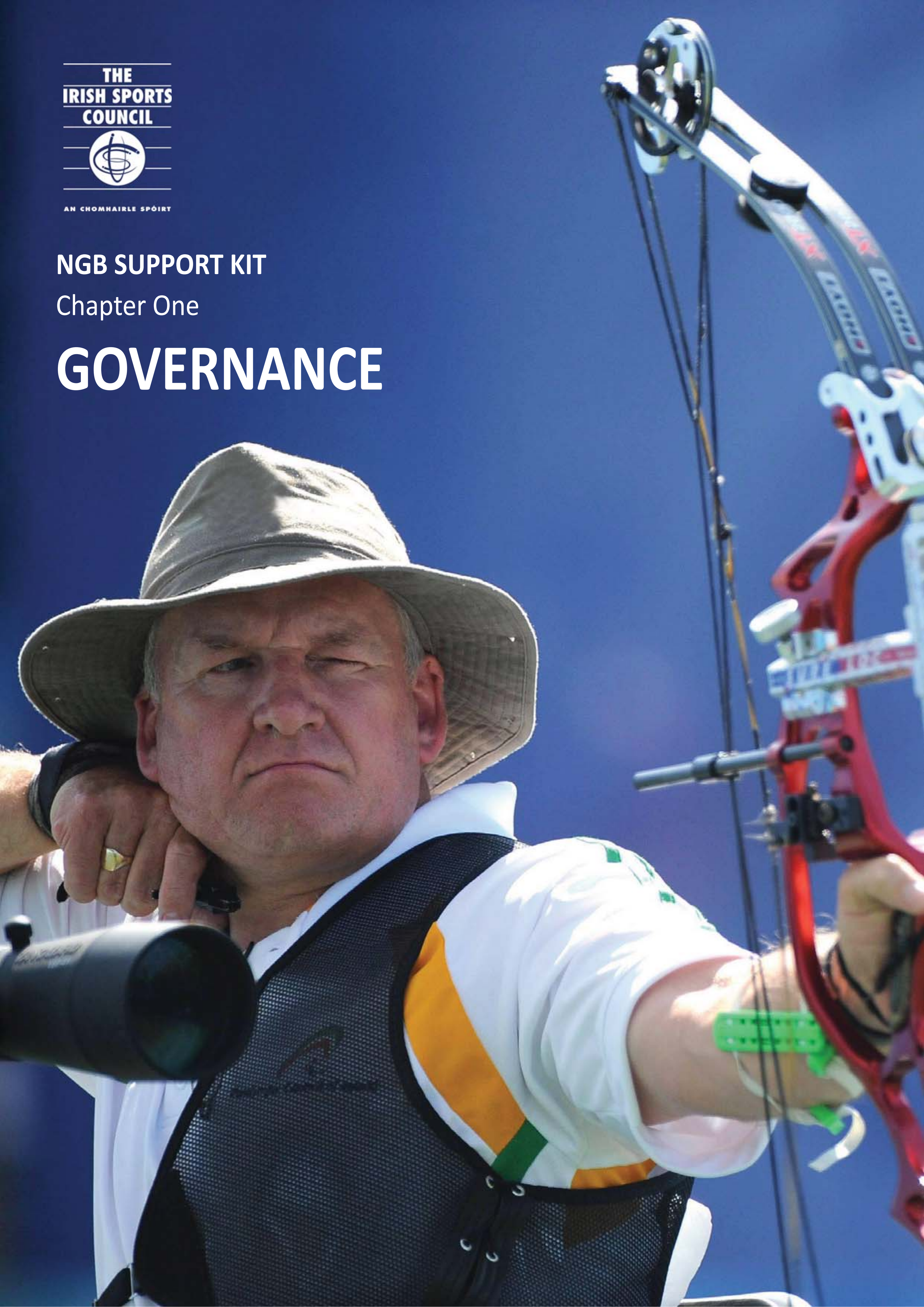
THE IRISH SPORTS COUNCIL

AN CHOMHAIRLE SPÓIRT

NGB SUPPORT KIT

Chapter One

# GOVERNANCE



# 1. Governance

## Introduction

All bodies in receipt of Irish Sports Council funding are expected to operate in a democratic and transparent manner and display all elements of good corporate governance.

The term governance, describes the process of running your sports organisation, making decisions and ensuring that it is properly accountable; whereas management is concerned with organising the day-to-day activities of the organisation. To be an effective and accountable organisation, you need to ensure that you have good governance arrangements in place.

The Irish Sports Council's strategic objectives include the development of National Governing Bodies (NGBs). Developing good governance practices in NGBs is a key part of that process. The basic principles of Governance in a voluntary or public service context include Accountability, Openness and Integrity and these values should underpin all activities of the NGB. Other key elements in the governance process involve an appropriate set of communications between an NGB's management, its Board, its members and other stakeholders.

The `Internal Control System' includes all the policies and procedures (internal controls) adopted by the NGB to assist in achieving their objective of ensuring, as far as practicable, the orderly and efficient conduct of the Governing Body's activities. This includes adherence to internal policies, the safeguarding of assets, the prevention and detection of fraud and error, the accuracy and completeness of the accounting records and the timely preparation of reliable financial information. The CEO, Chairperson and all Board members have a responsibility for ensuring that an adequate and appropriate internal control system operates within the NGB.

The `Control Environment' means the overall attitude, awareness and actions of the Board, management and staff regarding internal controls and their importance in the company. The control environment encompasses the management style and organisation culture and values shared by all. It provides the background against which the various other controls are operated. Factors reflected in the control environment include the philosophy and operating style of the Chairperson, Board and any other staff and the structure and methods of assigning authority and responsibility.

# 1.1 Corporate Governance Introduction

The following areas have been identified as the most common areas that require attention within organisations when they are audited by the Irish Sports Council.

## 1. Risk Management

Risk is an event that may prevent the organisation from achieving its objectives. An NGB can manage and control risk appropriately by establishing internal controls. Risk includes all the uncertainties and opportunities that an organisation faces. Risks need not, and often cannot be eliminated, but they should be reduced to a level that is acceptable to the NGB. It is the responsibility of management to assess risks knowingly, reduce risks where appropriate and consider future events that cannot be predicted with absolute certainty. When an organisation has developed and implemented a comprehensive risk management process it should be in a stronger position to maintain a sound system of internal control. These guidelines focus mainly on financial risk, however all risks are inter-related.

Potential benefits and opportunities for implementing effective risk management procedures are:

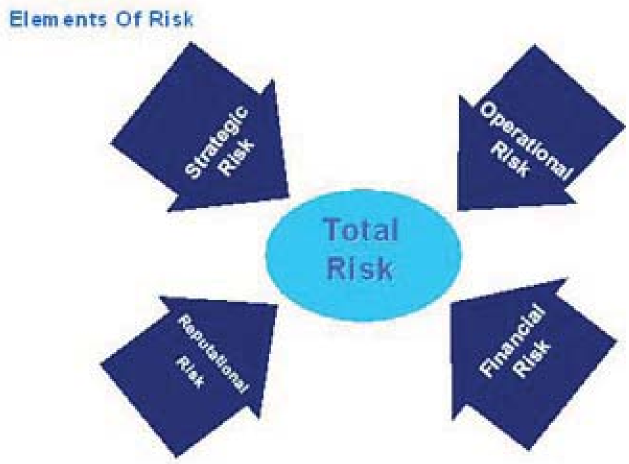
- Better sporting or participation outcomes
- Improved safety for participants, officials, the board and volunteers
- Lower costs and increased budget certainty
- More effective management of assets, events, programs and activities
- Improved compliance with the law, regulations and other formal requirements
- Enhanced image and reputation.

**Risks facing sport and recreational organisations:** The inherent nature of sport and recreation means that risk areas are broad. Some general risks that could apply to your organisation include:

- Inadequate or inappropriate insurance
- The organisation is not incorporated
- Lack of financial policies and safeguards
- Unsafe equipment and facilities
- No emergency medical plan

**The setting of clear, documented objectives is a precondition for risk management:** In many organisations risk management has developed from the insurance function. However, risk management should be concerned with more than just the insurable risks.

It includes all the uncertainties and opportunities that a NGB faces. These risks may be analysed as follows:




**Strategic Risk:** The risk that the NGB would take a strategic direction or engage in activity at variance with its mission statement or fundamental organisational objectives

**Operational Risk:** The risk that the NGB's policies, procedures or activities would fail to make progress towards achieving its organisational objectives

**Financial Risk:** The risk of failing to safeguard company assets, financial impropriety, financial misreporting or failure to achieve value for money

**Reputational:** The risk that the organisation would engage in activities or be perceived to engage in activities that would threaten its good name brand and public image

**Managing Risks:** When identifying risks many NGBs will identify the symptoms of risk. However, to enable risks to be effectively managed, the underlying reason for the risk exposure (its cause) will have to be identified

Responsibility for risk management rests ultimately with the NGB's Board who should retain responsibility for the major risks facing the organisation. However, all levels of staff should be responsible for the management of risk in their particular area.

- Risk management requires the following steps: establish a business framework; identify and evaluate risks; measure risks; control the most important risks; monitor and review arrangements for corrective action
- Improving internal controls may reduce risks, for example, implementing audit recommendations. If the risk is too great for the NGB and it is not practical to reduce the risk then the risk should be avoided
- Insurance is the usual way of transferring risks, especially high impact risks that cannot be accepted. As an alternative the risk may be transferred by contracting out certain functions, i.e. strategic planning services or through joint ventures, i.e. building a facility with another Governing Body of Sport with a view to sharing the cost and spreading the risk
- A full review of the risks that the NGB faces should be undertaken at least once every three years. In addition, each year the risk management process at each level within the organisation should be formally reviewed. The risks that have crystallised and any changes to the impact or likelihood of each significant risk should also be considered. Some financial risks that need to be taken into account each year would include; a drop in the level of ISC funding, a significant increase in the NGB's insurance, etc
- One way to achieve this is to combine this process with existing business planning routines such as revising the strategic plan or developing annual budgets. This could be achieved by requiring Committee Chairmen or staff members to complete a report on risks that they may face in the implementation of their strategic goals for their area of responsibility
- Where necessary, further action should be agreed to deal with unacceptable outstanding risk and a report should be sent to the Board on the results of this risk review process

A monitoring process provides reasonable assurance to the Board that there are appropriate control procedures in place for all the NGB's financially significant business activities and that these procedures are being followed (e.g. consideration by the Board of reports from management, from external auditors or from independent accountants). There should be formal procedures to identify changes and weaknesses in the business, the NGB's policies and procedures and its environment, which will require changes to the system of internal financial control.

**Insurance:** In the ever-increasing world of litigation, the requirement for sport and recreation organisations to have appropriate insurance has become an essential part of survival. It is vital your organisation protects its assets with adequate insurance.

**Risk Management Tool:** Insurance is a common risk management tool, which may be used to minimise your organisation's liability. However, insurance is a reactive rather than a pro-active risk management tool. Other risk management strategies should be adopted in order to reduce the risk from occurring in the first place. Examples of legal claims/risks sporting organisations are exposed to:

- Negligence claims - eg. personal injury or decisions made
- Criminal liability - including claims for sexual offences and discrimination
- Occupier's liability
- Occupational health and safety
- Employment liability - eg. unfair dismissals.

Types of Insurance: Your risk assessment process will identify the type of risks the organisation is subject to. This will help determine whether insurance is available and appropriate. Some policies that may be applicable to your organisation:

- Public liability insurance
- Professional indemnity insurance
- Directors and officers liability insurance
- Associations liability insurance
- Personal accident insurance
- Occupational health and safety cover
- Workers compensation
- Property contents insurance
- Building insurance
- Travel insurance.

## 2. Review of Board Performance

Just because the board contains talented and skilled individuals doesn't mean it will be effective. The right mix of skills, organisation and leadership from the chair is crucial, as well as having clear guidelines and measures of performance. Measure should be at corporate, board and individual director level, and include non-financial and financial measures in the approach.

Before evaluating, organisations will need to decide:

- Who will do the evaluation - the board itself or external consultants?
- Who is being evaluated - board alone or the committees too?
- What is to be covered - operational and/or strategy?
- How is it to be done - with interviews or questionnaires, or a mixed approach?, and
- What is done with the information collected - for public disclosure or to remain confidential?

Best Practice Suggests:

- Individual evaluation of directors should consider their individual contributions and time commitment to the role
- The chairman should consider the strengths and weaknesses of the board using the results of the evaluations
- Non-executive directors should be responsible for evaluating the chairman of the board.

The board of directors should state in the annual report how they undertake the process of evaluating the board's committees and individuals' performance.

Others measures could be:

- Are results/performance comparable with competitors?
- Are board decisions regularly reviewed to measure the impact of decisions taken?
- Do all directors contribute effectively?
- Is there effective leadership from the chair?

Evaluation should be rigorous and not just a 'tick box' exercise, and should take place annually.

**Evaluation of Non-Executive Directors**

Like the board in general, non-executive directors should expect their performance to be evaluated on a regular basis. Criteria used to evaluate performance include:

- Preparation and attendance at board meetings
- Time spent understanding the organisation's business outside of the boardroom
- Quality and value of boardroom contributions
- Contributions to risk assessment and strategic development
- Readiness to challenge and probe any assumptions are areas of concern?
- Behaviour and performance gain board respect?
- Current awareness and keeping up to date
- The expressing of views and listening to others.

## 3. Developing Policies: What is a policy?

A policy is a guide to action and decision-making under a given set of circumstances that assures consistency and fairness within the framework of your objectives and philosophy. By having policies and procedures in place, you provide a strong reference point for staff and volunteers when they are in doubt about what to do in a given situation. Clearly documented policies and procedures reduce the variance in practices that can occur when policies do not exist. They also limit the range of interpretation that occurs when policies and procedures are 'known' by personnel, but are not formalised in writing. When you set up policies, try to strike a balance. Strive to provide essential protections without stifling room for individual circumstances. You can't, and you shouldn't try to, cover every possible contingency.

**Who's responsible?**

The responsibility for setting up organisation policies lies with the board, but should involve all members in the process. A draft policy can be developed and then distributed to members (or member representatives) for comment. By allowing members to be a part of the process, the policy is more likely to be understood and accepted.

Once the policy has been ratified, all members must be educated about its relevance and importance. A written policy is of little use unless the people it affects understand its place in the organisation. It should be kept clear and concise in order to be manageable and accessible.

**What should be in the policy?**

There is certain information that should be contained in any policy. It must be clear to all exactly who the policy relates to, when the policy is to take effect, what the penalties are for breaching it and how an appeal can be brought about. Below is a guide as to what should be included in any policy.

- An introductory statement declaring the organisations commitment to the policy
- A statement explaining which people and what situations are covered by the policy
- An explanation of any relevant laws pertaining to the policy
- Examples of what will or will not be tolerated under the policy (if appropriate)
- An outline of responsibilities of all participants in the organisation in relation to the policy
- An explanation of options available and processes to be followed when a breach of policy occurs
- A statement of the consequences or penalties that will be imposed when the policy is breached
- Assurances of confidentiality in the matter (if appropriate)
- Information on where individuals can get help, advice or make a complaint
- Information on an appeals process (if appropriate)

**Step by step guide to writing your own policy**

- Appoint someone with the responsibility for coordinating the drafting of the policy

- Collect all the data and information you need
- Consult with those affected by the policy to get their input
- Prepare a draft document - sometimes it is easier to find an existing policy and modify it for your circumstances
- Obtain comment on the draft and amend accordingly
- The policy is adopted formally by the organisation
- The policy is published, promoted and distributed to all affected parties
- Compliance and monitoring of the policy
- Review and update policy on an annual basis

Examples of organisation business that require strict policies as well as procedures is in the area of managing funds and finance. For instance, a policy may clearly set out that any expenditure above a certain amount must be signed off at board level. This protects the organisation in that it sets out very clear parameters within which members may operate. It is the responsibility of the Board to set policy in these key areas.

## 4. Document Financial Policies and Procedures:

The NGB should adopt the following financial policies and procedures.

- A commitment by management and employees of the NGB to competence and integrity and the development of an appropriate culture to support these principles
- Communication of appropriate agreed standards of business behaviour and control consciousness to employees (e.g. through written codes of conduct, formal standards of discipline, performance appraisal, codes of conduct for working with volunteers, etc.)
- An appropriate organisational structure within which business can be planned, executed, controlled and monitored to achieve the NGB's objectives so that it can manage its financial affairs accordingly. A NGB may have to consider changing its historical structures, i.e. changing committee structures to have representation from four provinces
- Allocation of sufficient time and resources to internal control and risk management issues by the Board, management and the NGB. NGBs must recognise that they need to run business efficiently if they want their sports promotion aims to flourish. A commitment to internal control and risk management is a key element of this
- The creation of an environment that promotes learning within the NGB on risk and control issues, including the provision of relevant training
- Appropriate delegation of authority, with accountability, which has regard to acceptable levels of risk. The management of volunteers by professionals is a difficult balance to strike, but must be strived for if the resources available to the organisation are to be optimised
- A professional approach to attaining standards of corporate and excellence throughout the NGB.

## 5. Formal Controls Over Expenditure

Budgeting is the process of taking the organisational objectives and converting these objectives into short-term goals with a monetary value. Activities are converted into financial targets as most can be expressed in monetary terms. Overall budgeting can be seen as a central feature of the strategic planning process that links planning to control and ensures that objectives are operationalised. The three key aspects of this process are:

- **Planning:** The design of a desired future and of effective ways of bringing it about. As an organisation the NGB needs to plan for the resources under its control. The budget is a financial expression of that plan. It considers the desired position and how it can be achieved with the resources available. The long-term

plan of the NGB is analysed and those elements that the NGB wishes to achieve in the next 12 months are extracted and become the budget. It is important to note that the function of the budget is to integrate the long-term plan into the day-to-day operations of the NGB. This will ultimately lead to the targets of the long-term plan being achieved
- **Budgeting:** The process of planning for the future which involves the quantification in monetary terms of proposed activity levels
- **Control:** The process of looking back over past performance to make sure that what was meant to happen did happen, and where it did not, make the necessary changes to make sure that it does in the future. To control the activity of a NGB a comparison must be made between the desired activity expressed in financial terms (the budget) on the one hand and the actual outcome on the other. This is usually called variance analysis. It is important that the system that provides control information, whether manual or computer based, provides quick and reliable information if full benefit is to be gained from such a system.

### 6. Induction on to the Board

It is crucial that every company has an induction process for its directors and it is the chairman's responsibility to provide a full, formal and tailored induction when non-executive directors join a company in order to develop and update their existing knowledge. Even with full due diligence, new directors will need to acquire a deep understanding of the culture of the company they are becoming part of. The induction might:

- Build upon market-specific skills
- Contextualise the company's approach to risk
- Impart the latest financial information
- Examine the rules by which the board governs itself and matters reserved for its decision
- Set out matters delegated to board committees and the terms of reference under which such committees operate
- Review the company's corporate governance, policies and insurance
- Scrutinise the company's business plan and performance against key indicators contained within the plan.

The Code states that it is the responsibility of a company's secretary to facilitate directors' inductions and assist with their ongoing personal development. This follows the recommendation that all directors should receive an induction on joining a company and that all directors should regularly update and refresh their skills and knowledge. An induction and training programme should be appropriate to directors' skills and experience. Regular skills audits are an established means of establishing whether the board has the requisite skills and experience. Such an audit should also review what resources a company has made available to train its directors. If nothing is in place, or provision is inadequate, then this should be of concern to both prospective and current directors. Overseeing the implementation of a proper training programme is a responsibility that could be properly assigned to an experienced non-executive director. Once needs are established, a rolling programme should be devised for each director, which may include external seminars, internal training, and recommended reading of specific articles or publications. The programme should be reviewed at regular intervals in tandem with skills audits, to ensure the changing needs are met.

## 1.2 Meetings and the Annual Report

### Board Meetings

Regular meetings ensure that the organisation is successfully planning, communicating and monitoring progress. In larger organisations, it's particularly important to distinguish the strategic and governance role of the main board /committee from the operational and management roles of the various officers, task groups and sub-committees. Without a clear distinction, the main board or committee becomes overwhelmed in the management of the day-to-day details.

## Running Effective Board Meetings

A board meeting is fundamentally like any other type of meeting, so the basic principles of running effective meetings apply. The board meeting needs:

- An agenda - comprising a mix of long-term strategy and short-term performance issues
- Papers - concise, and well-written, salient points highlighted and distributed in good time, using the most appropriate method of communication - email or hard copy
- Appropriate information - financial and non-financial reports should be available
- To be held regularly - research shows the boards of the large listed companies meet between eight and ten times a year
- To be well attended - attendance should be expected - the Combined Code specifically states that attendance details of board meetings should be disclosed
- Attendees who are prepared - papers circulated have been read and considered, and attendees arrive ready to contribute
- Leadership - the chair introduces items and facilitates discussions, encouraging contributions from all
- Financial and human resources - the board must ensure that these are available to meet the long term strategies and short term performance issues and
- Values and standards - the board should set these to ensure every member of the board knows the main objective and that the interests of the company are considered at all times.

Minutes of the board meetings should be kept, especially recording any concerns which cannot be resolved. All previous minutes must be readily accessible.

## The Annual General Meeting

All organisations should have an Annual General Meeting (AGM), where the members and management committee come together. The AGM should be referred to in the Constitution.

The main reasons for holding an AGM are:

- To consider and/or present the organisation’s annual report
- To elect officers and management committee members
- To discuss and vote on amendments to the constitution or organisation rules
- To produce the annual accounts
- To produce the chairman’s annual report.

It is important to make sure that the AGM is well publicised and welcoming to ALL members. The members need to be involved in the AGM to ensure that the organisation’s decision making process is fair and representative of the organisation. It is also an opportunity to recruit ‘new blood’ onto the committee.

The secretary is normally responsible for making all of the arrangements for the meeting. Usually notice for an AGM is a minimum of 21 days, therefore the venue, date and time should be arranged well in advance. The members should be notified and invited to make nominations for the election of officers.

## The AGM Agenda

The following is an example of the standard Agenda for an AGM. Your organisation may wish to change it if needed, but this is how a typical AGM Agenda appears.

- Apologies for absences
- Minutes of the last AGM
- Matters arising
- Presentation of the annual report
- Presentation of the annual accounts
- Election of the new committee
- Proposed motions (if any)*
- Guest speakers
- Any Other Business (AOB)

** A 'motion' is a proposal for discussion and decision at the AGM.*

## Election of Officers

The election of officers can occur in two ways. You can either decide to ask at the AGM or you can send out written nominations and voting papers in advance. Individuals are nominated for the position of officer by other members.

## The Annual Report

As mentioned earlier, one of the main purposes of the AGM is to consider or present (depending on the status) the annual report. The annual report is a review of the organisations activities throughout the year including a financial report.

The annual report can be used for internal purposes (e.g. informing members, users and funders what has happened in the last year), for public relations purposes (e.g. encourage and impress funders or potential funders) or for legal requirements.

The actual content of what you include in your annual report is up to your organisation, but below are a few things that a typical annual report might include:

- Who your organisation is?
- What your organisation does?
- What you have achieved over the last year (including sporting achievements)?
- Who is on the committee?
- Financial report from the Treasurer?
- Acknowledgement of funders and funding?
- Acknowledgement of people who gave their time and premises?

**Extraordinary General Meetings** are called upon if at least a third of the organisation's members (or some other proportion specified in the constitution) wish to amend a rule, amend the constitution or discuss any other important, urgent matters which cannot wait until the AGM.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# 1.3 Governance Principles
(source: The Australian Sports Commission)

## Purpose

The purpose of these guidelines is to:

- Assist members of boards, chief executive officers and managers of sporting organisations to develop, implement and maintain a robust system of governance that fits the particular circumstances of their sport
- Provide the mechanisms for an entity to establish and maintain an ethical culture through a committed self-regulatory approach
- Provide members and stakeholders with benchmarks against which to gauge the entity's performance.

## Accountability

The size, complexity and operations of sporting organisations differ, so to optimise individual performance, flexibility must be allowed in the structures and systems that are adopted. This flexibility must be balanced against accountability, contestability and transparency. There is an obligation for all sporting organisations to explain to stakeholders if any alternative approach to the best-practice principles is adopted (the 'if not, why not' obligation).

## Governance

Governance is the system by which organisations are directed and managed. It influences how the objectives of the organisation are set and achieved, spells out the rules and procedures for making organisational decisions and determines the means of optimising and monitoring performance, including how risk is monitored and assessed. The Australian Sports Commission (ASC) recognises that effective sports governance requires leadership, integrity and good judgment. Additionally, effective governance will ensure more effective decision making, with the organisation demonstrating transparency, accountability and responsibility in the activities undertaken and resources expended. It is commonly accepted that governance structures have a significant impact on the performance of sporting organisations. Poor governance has a variety of causes, including director inexperience, conflicts of interest, failure to manage risk, inadequate or inappropriate financial controls, and generally poor internal business systems and reporting. Ineffective governance practices not only impact on the sport where they are present, but also undermine confidence in the Australian sports industry as a whole.

Governance concerns three key issues:

- How an organisation develops strategic goals and direction
- How the board of an organisation monitors the performance of the organisation to ensure it achieves these strategic goals, has effective systems in place and complies with its legal and regulatory obligations
- Ensuring that the board acts in the best interests of the members.

The National Sporting Organisation Sports Governance Principles of Best Practice advocate strengthening structures that support good leadership and decision making, and ensure sound and effective governance. In keeping with best practice in Australian corporate governance, this paper contains guidelines within which the ASC believes a sporting organisation's board members should operate and enact their role. The resource takes the form of six major principles:

- **Principle 1:** Board composition, roles and powers
- **Principle 2**: Board processes
- **Principle 3:** Governance systems
- **Principle 4:** Board reporting and performance
- **Principle 5:** Member relationship and reporting
- **Principle 6:** Ethical and responsible decision making.

## Principle 1: Board composition, roles and powers

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 the roles, responsibilities and powers of the board, management and each body involved. Further, there should be no overlap in the powers of any two bodies or individuals in a governance structure.

The organisation's framework of governance should:

- Enable strategic guidance of the entity
- Ensure the effective monitoring of management by the board
- Clarify the respective roles, responsibilities and powers of the board and management
- Define the board's accountability to the entity
- Ensure a balance of authority so that no single individual has unfettered powers.

**Principle 1.1:** That management powers be formalised, disclosed and 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.

**Commentary and guidance:** 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. The nature of matters reserved to the board and delegated to management will necessarily depend on the size and complexity of the organisation, and be influenced by its tradition and culture and the skills of directors and managers.

**Principle 1.2:** That national sporting organisations be incorporated as a company limited by guarantee under the Corporations Act 2001 (Cwlth).

**Commentary and guidance:** It must also be noted that, regardless of the Act (Corporations or Associations) under which the organisation is incorporated, if a national sporting organisation 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 organisation. While there can be arguments for the adoption of various legal structures, and there are limitations and benefits attached to each, the ASC encourages national sporting organisations to adopt a company limited by guarantee organisational structure.

The more comprehensive legislation entailed within the Corporations Act 2001 (Cwlth) provides for a very robust and structured platform for the operation of organisations and provides clarity in areas otherwise silent within the Association Incorporation Act. The key governance role of the organisation under each of the Acts rests with the 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.

**Principle 1.3:** That the incorporated body has a constitution, which embodies the following key sections:

- Interpretation -- objects and powers
- Members -- membership and meetings of members (general meetings)
- The board -- powers, other roles (chief executive officer and secretary) and meetings of the board
- Reporting
- Accounts
- Auditors
- Winding up.

**Commentary and guidance:** The constitution should be written in a clear, unambiguous and succinct manner. It should not be overburdened with items that would be better served to be detailed in the organisation's by-laws or policies. These are usually items that can be expected to be changed and updated from time to time. In these circumstances the board should, through by-law and policy development, be empowered to oversee and manage the issues.

**Principle 1.4:** That the members of an organisation should elect the majority of the board of directors. In addition, any issue on which a member vote is taken should require a majority of member votes for any proposal to be passed.

**Commentary and guidance:** Each sporting organisation should detail how people and/or organisations may become the members of them. The constitution of the incorporated body will state the voting power of each member in this regard. The ASC advocates that a 'one state one vote' voting system be applied to federal sporting structures. While a proportional voting system is an option, it is not recommended. Large member bodies should never be able to dominate the direction of an organisation. Where a board is made up of appointed and elected directors, it is recommended that at least a majority of the board membership is elected by the members. In addition, it is also advocated that votes taken at board or general meetings should be passed by a majority of directors/members and not be subject to a casting vote. This principle is based on the premise that if a majority cannot agree on an issue then the issue should be forfeited.

**Principle 1.5**: That the governance structure should feature a clear separation of powers and responsibilities between the board (the 'mind' of the organisation) and the chief executive officer and their staff (the 'hands' of the organisation).

**Commentary and guidance:** 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 chief executive officer (or similar), their 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 will be significant delegations to the chief executive officer. In their capacity as directors, directors have no individual authority to participate in the day-to-day management of the entity, unless authority is explicitly delegated by the board.

**Principle 1.6:** That the board should:

- Confirm the broad strategic directions of the organisation
- Appoint, dismiss, direct, support professional development for, evaluate the performance and determine the remuneration of, the chief executive officer
- Approve, monitor and review the financial and non-financial performance of the organisation
- Ensure an effective system of internal controls exists and is operating as expected, and that policies on key issues are in place and appropriate and that these can be applied effectively and legally to those participants or persons for whom they are intended

- Develop a clearly articulated and effective grievance procedure
- Ensure financial and non-financial risks are appropriately identified and 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
- Ensure director, board and chairman performance evaluation occurs regularly.

**Commentary and guidance:** The board's primary responsibility is one of trusteeship on behalf of its stakeholders, ensuring that the legal entity, the organisation, remains viable and effective in the present and for the future. The board's role includes determining the organisation's strategic direction, core values and ethical framework, as well as key objectives and performance measures. A key critical component of this role is the board's ultimate authority and responsibility for financial operations and budgeting to ensure the achievement of strategic objectives. Where a sporting organisation does not have a chief executive officer or equivalent position, either paid or unpaid, management and operational tasks may be delegated to a range of people, including board members or committees. In this case, directors must ensure that they separate their strategic board roles and responsibilities from their individual operational responsibilities.

**Principle 1.7:** That each board should be structured to reflect the knowledge of the sport and sports industry and the complex operating environment facing the modern sporting organisation. Normally, it is envisaged that a board will:

- Comprise between five and nine directors
- Have a sufficient blend of expertise and skills necessary to effectively carry out its role
- Have all directors being independent, regardless of whether they are elected or appointed
- 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 the board's skills mix.

**Commentary and guidance:** The number of directors on a board should reflect the size and level of activity of the organisation. As such, the ASC advocates a board with the necessary skills to carry out its governance role rather than a representative board. Independent directors are those that are not appointed to represent any constituent body, are not employed by or have a significant business relationship with the organisation, do not hold any other material office within the organisational structure and have no material conflict of interest as a result of being appointed director. In relation to traditional federal sporting structures, the holding of state-level positions would be seen to be a material conflict of interest if held at the same time as national-level positions. In unitary sporting structures, where there is only one organisational entity with a direct relationship to individual members and/or their clubs, club-level positions may create a similar level of conflict to that of the state level in the federal structure. Similarly, sporting organisations whose operations are predominantly of a business-owner nature should avoid situations where the owners of those businesses are also the key decision makers of the organisation, where those decisions will have a material effect on the outcomes of those businesses, perceived or actual. Examples of material conflicts are: presidents of member bodies, representatives of select groups (for example, umpires) and chief executive officers or senior staff. When directors do represent a constituency, they are bound by their legal responsibility to represent the organisation as a whole. External appointments (appointed directors) are appointments to the board that have not been elected by the constitutional members and are at the discretion of the existing board. An effective board has a proper understanding of, and competence to deal with, the current and emerging issues of the business and can effectively review and challenge the performance of management and exercise independent judgment.

**Principle 1.8:** That national sporting organisations and their member bodies have aligned objects and purpose to ensure effective and efficient achievement of sport outcomes.

**Commentary and guidance:** To achieve effective outcomes for the sport it is essential, particularly in a federated model, that national and member bodies have aligned objects and purpose. It is critical that member bodies within a sport operate as if they were one body working towards the same outcome to deliver effective products and services to its members and stakeholders. The sport should have a single strategic plan that drives the overarching objectives, which are delivered consistently and effectively by the member bodies. The sport's strategic plan should form the basis of all local implementation outcomes and be developed with input and agreement from all stakeholders.

**Principle 1.9**: That where two or more bodies are amalgamating, an interim board arrangement occurs in order for all parties to be confident about the future direction and priorities of the amalgamated body.

**Commentary and guidance:** 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, at the end of which a new board structure as outlined in Principle 1.7 should be adopted. The ASC encourages like organisations to look into the benefits of amalgamation to ensure that sustained competitiveness, efficiencies and economies of scale are achieved to provide enhanced outcomes for the sport's members and participants.

**Principle 1.10:** 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 that directly impact on the organisation
- A code of conduct or policy specifying the behaviour expected of directors (see Principle 6)
- 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
- A process that governs a director's involvement in any decisions with which they have a conflict of interest
- The requirement for a register of ongoing interest to provide a record of all potential conflicts
- A director should not hold any other official or corresponding administrative position within the organisation at any level that creates a material conflict of interest. This is to ensure no actual or perceived conflicts of interest
- Maintaining a register of related party transactions
- The responsibilities of directors for continuing professional development as well as engagement in ongoing performance assessment (see Principle 4).

**Commentary and guidance:** The role of a director of an organisation is one of the key components of the governance framework to ensure the accountability, transparency and contestability of the direction, performance and conformance of the organization. It is critical that new directors are appropriately inducted to the board and the organisation and that they understand their roles within the organisation. In relation to a director's conflict of interest, a director should not hold any official position at state, regional or club level, or corresponding administrative position, that provides a material conflict of interest which is actual or perceived and that all endeavours to avoid this should be pursued (see Principle 1.7). Directors should have appropriate personal qualities such as loyalty, honesty, the courage to ask tough questions and should exhibit high ethical standards. As a minimum, directors should embrace fairness, respect, responsibility and safety as key guiding principles of ethical behaviour within their organisation.

**Principle 1.11:** That the roles of key positions in the governance system are documented and understood. Normally these positions should include:

- Board
- Chair/president
- Directors
- Company secretary
- Chairs of board committees
- Management
- Chief executive officer.

**Commentary and guidance:** As it is expected that national sporting organisations will form a company limited by guarantee structure, then it will be necessary to appoint a company secretary to provide for the legal compliance requirements under company law.

**Principle 1.12:** That the chief executive officer will not normally be a director of the board. This enables and supports a clear separation of power between the board and management.

**Commentary and guidance:** The ASC suggests it is good practice to ensure that a distinction between management and board membership occurs and that the chief executive officer of the organisation should not necessarily be a member of the board. However, in this circumstance it is also good practice to ensure the chief executive officer is aware of, and present at, board meetings to provide information and advice to the board on the operations of the organisation and to understand the direction provided by the board.

## Principle 2: Board processes

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. An effective board meeting should have the following attributes:

- A capable chair, with meetings held regularly and attended by appropriate personnel
- Board papers for every item provided in advance so directors are informed and well prepared
- Clear, timely and accurate recording of decision making and communication of outcomes to stakeholders.

**Principle 2.1:** That the board should document its meeting process. Normally this will include:

- Legal requirements
- 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.

**Commentary and guidance:** The legal requirements in regard to meetings incorporate such items as the official number required to make a quorum, the amount of notice required for calling a meeting and other such requirements as specified in the organisation's constitution. The frequency of meetings will depend on the size of the organisation and the internal and external circumstances, including any specific issues the organisation needs to deal with at any given time. A sporting organisation board should meet no less than six times per year and often as regularly as monthly. The schedule of dates for board and committee meetings should be agreed in advance.

**Principle 2.2:** That 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.

**Commentary and guidance:** The governance policy should outline the process for establishing the agenda for each board meeting. It is essential that the board ensures meetings adhere to pre-agreed time frames and that adequate time is given to each agenda item. It is also essential that the board ensures some agenda items are linked to the strategic objectives of the organisation and that there is an alignment between the reporting from management and the key performance indicators that have been approved by the board.

**Principle 2.3:** That 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.

**Commentary and guidance:** The governance policy should determine timing with regard to receiving board papers in advance. Minutes should be an accurate record of discussions held and should be distributed in a timely manner, usually within a week of the meeting. These should be agreed by the board and outcomes communicated to stakeholders, again in a timely manner.

**Principle 2.4:** That 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 chief executive officer, any additional information from management if required (see Principle 4).

**Commentary and guidance:** The governance policy should state the circumstance when and how board members should go about accessing external or additional information in relation to board papers. For example, a director may wish to receive additional financial reports to enable them to effectively carry out their duties.

**Principle 2.5:** That the board should plan its key annual activities and develop a corresponding board calendar/work plan.

**Commentary and guidance:** The board calendar/workplan should include major annual activities for the board agenda, such as budget approval, strategy review, chief executive officer evaluation and annual general meeting.

**Principle 2.6:** That the board and each committee established by the board should have terms of reference or a charter. The terms of reference/charter should include, at a minimum:

- Board/committee purpose
- Authority delegated to the board/committee
- Board/committee composition, including the appointment of a chair
- Reporting requirements
- Delineation of the role of the board/committee and the role of management.

**Commentary and guidance:** Board committees allow directors to give closer attention to important issues facing the organisation than is possible for the full board. Board committees are an effective way to distribute the work between the directors and allow more detailed consideration of specific matters.The number of board committees, size and mix, will vary from organisation to organisation depending on its size, complexity and the challenges it faces. Sporting organisations should consider the need to have board committees. Examples of board committees are audit, remuneration, selection and technical. The function and importance of the audit committee are considered later in these guidelines.

## Principle 3: Governance systems

The board is ultimately responsible for the success of the organisation it governs. Each board should clearly define its role in discharging this responsibility. An effective organisation should have the following systems:

- A strategic planning framework identifying core organisational values, goals and performance management indicators
- Clearly documented board/management interaction, including appropriate delegations and authority of all parties
- A thorough process for identifying and monitoring legal, compliance and risk management requirements
- A thorough system of audit, including internal and external processes
- A performance management system to provide evidence and ensure monitoring of legal compliance and performance against plans.

**Principle 3.1:** That the board should determine the process by which it will develop the strategic direction, key objectives and performance measures as well as core values and ethical framework for the organisation.

**Commentary and guidance:** It is important that a board regularly reviews its strategic priorities to ensure it maintains its competitive advantage and is clear about what it wants management to focus on. The ASC considers it important that all key stakeholders are consulted through the strategic planning framework to ensure future strategies address the most pressing issues within the industry.

**Principle 3.2:** That 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 chief executive officer and management
- A protocol for individual directors to acquire all information required for decision making and control (see Principle 4).

**Commentary and guidance:** The relationship between management and the board is critical and must be supported by a clear segregation of responsibilities. At all times the board must be in control, however management must be accountable, operate with delegated authorities, have appropriate levels of skills, and perform against the established key performance indicators. Directors should not approach management directly, but rather should channel all additional information requests through the chair and chief executive officer, unless specifically approved within the protocols.

**Principle 3.3:** That the board should have 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 (see Principle 5).

**Commentary and guidance:** It is essential that the performance indicators are clear and concise and, more importantly, can actually be measured. It is also imperative that an organisation understand where they currently stand in relation to key performance indicators so a comparison can be achieved between past, current and future result targets.

**Principle 3.4:** That the board should have 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/NZS 4360:2004.

**Commentary and guidance:** It is essential that an organisation regularly reviews its risk exposure across all facets of the organisation. In line with AS/NZS 4360:2004 an organisation should review the likelihood and impact of all possible incidents and assess the actions required to minimise, avoid or eliminate potential risks. An organisation should ensure it also assesses the opportunities forgone as part of its risk assessment and evaluation process, as risk is not only a negative element; the opportunity cost of not doing activities should also be considered. In addition, some events or activities often need a specific and comprehensive risk assessment to be done (for example, the hosting of a large sporting event). In this situation a business case should be developed as part of normal risk management processes to assess the impact and potential outcomes, negative or positive, of such an event.

**Principle 3.5:** That the board should implement an effective compliance system. It is recommended that this system comply with Australian Standard AS3806:2006 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.

**Principle 3.6**: That the board should develop and document a regular (annual/six-monthly) performance review process for the chief executive officer.

**Commentary and guidance:** 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 chief executive officer performance. The performance indicators for the chief executive officer should be clearly linked to the strategic goals and objectives set by the board and should be measurable. In addition the chief executive officer should have performance measures linked to staff performance and key stakeholder relationships.

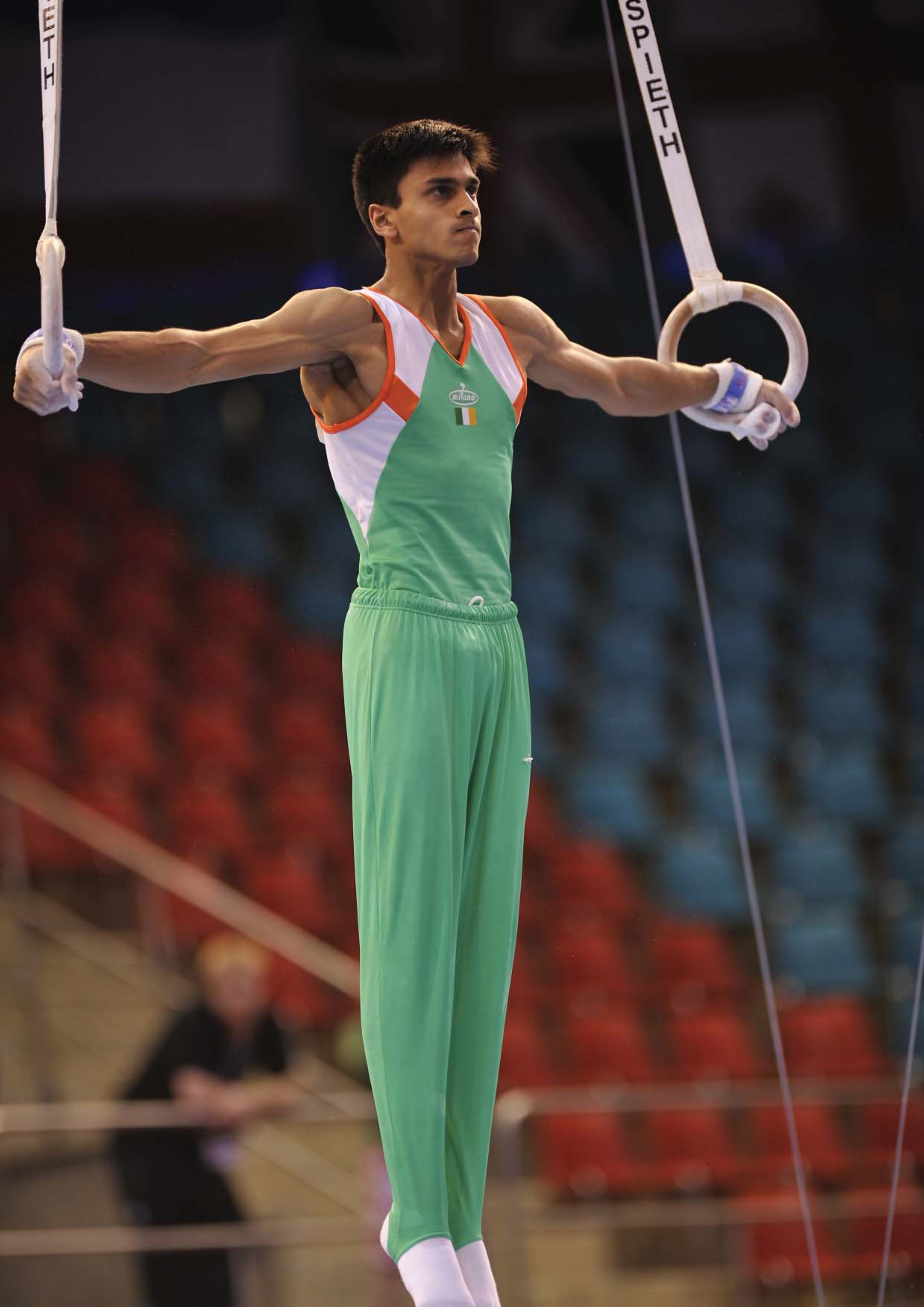
**Principle 3.7:** That the board must ensure an effective audit system and process is in place. The audit process may include internal and external processes and systems.

**Commentary and guidance:** An effective audit process should ensure there are adequate controls and systems in place to alert management and the board to potential financial risks associated with the operation of the sport. Given the heavy financial focus on audit processes, management and board directors should have basic financial literacy that enables them to understand and actively challenge information presented.

**Principle 3.8:** That the board should establish an audit committee and that its role be set out by formal charter/terms of reference.

**Commentary and guidance:** The existence of an audit committee is recognised as an important feature of good corporate governance. The committee should be structured with at least three people who should be financially literate, and include at least one who has financial expertise (that is, a qualified accountant). The audit committee should only comprise persons who are not directly involved in the management of the organisation. The chair of the audit committee should be independent from the chair of the board. The audit committee should take prime responsibility for, but not be limited to:

- Reviewing the organisation's annual financial accounts and recommending them to the board for approval
- Overseeing the relationship, appointment and work of external and internal auditors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- Reviewing compliance-related matters
- Overseeing the organisation's risk management framework
- Regularly reviewing the organisation's ongoing financial accounts, systems and delegations.

The audit committee charter should clearly set out the committee's role, responsibilities, composition, structure and membership requirements. The committee should be given the necessary power and resources to meet its charter. This includes rights of access to management, and to auditors without management being present, and rights to seek explanations and additional information. If approved by the board, an audit committee can extend their mandate beyond purely financial and audit matters to include compliance and risk management as areas of focus.

**Principle 3.9:** That since ultimate decision-making power rests with the board, the board should clearly document all delegations of authority to the chief executive officer 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.

**Commentary and guidance:** To ensure the delegations document is not limiting and restrictive on the operations of the organisation, it is often better to articulate the limits of management authority as opposed to trying to articulate every possible approval item. This approach will provide a framework in which management can operate, without unnecessarily burdening the board with items management should clearly deal with.

## Principle 4: Board reporting and performance

Each organisation should have a comprehensive reporting and performance management system in place to ensure organisational effectiveness and efficiency. It is essential that directors are provided with timely and accurate financial accounts to ensure effective decision making can occur.

In addition, the board should review the directors' individual and collective performance, including the effectiveness of the chair, to ensure they are discharging their responsibilities against that of the stated objectives. Ensure a board and individual director development program is in place, including mechanisms to respond to non-performing directors.

An effective system of reporting and performance management should include:

- Comprehensive and complete financial accounts
- Review and consideration of the accounts by an audit committee
- Ensuring the independence of the organisation's external auditors
- Directors and board committee members being knowledgeable, well-briefed and informed, having access to the appropriate information or advice when required, and being provided with the opportunity for continuous improvement and education
- A board and director performance evaluation system
- An alignment between key performance indicators and the strategic objectives as outlined in the organisation's strategic and operational plans.

**Principle 4.1:** That the board should ensure its officers and directors have appropriate insurance cover.

**Commentary and guidance:** It is essential that all directors and officers in an organisation have the appropriate liability and indemnity cover no matter what the purpose or structure of the organisation (for example, not for profit), as once an organisation starts incurring debts and liabilities, directors are potentially liable to provide for any losses incurred.

**Principle 4.2:** That the board should ensure all new directors undergo an appropriate induction process.

**Commentary and guidance:** The induction process should ensure all directors have:

- An appropriate level of knowledge of the industry in which the organisation operates
- A clear understanding of an organisation's business operations
- A clear understanding of the organisation's financial circumstances
- A clear understanding of the organisation's strategy and direction
- A high-level knowledge of the business risks that may affect the organisation's success
- Access to relevant background information.

Management should provide a briefing session to all new directors once they have had time to assess the information just listed. This will allow them to address any concerns or queries they may have regarding the organisation. Continuous education and professional development programs should be made available to directors as necessary.

**Principle 4.3:** That the board should ensure that a director can access independent professional advice if required and that this is appropriately protected with a deed of access or similar.

**Commentary and guidance:** Board directors and board committee members should be entitled to obtain independent professional or other advice at a cost to the entity on predefined terms. These rights should be documented and provided to directors and committee members. Board directors and board committee members should be entitled to obtain certain resources and information from the entity. These rights should be documented in the deed of access or similar document.

**Principle 4.4:** That the board should receive timely and accurate financial statements that are presented regularly (preferably monthly). These statements should include the following:

- Profit and loss statement
- Balance sheet
- Cash flow statement
- Written report regarding material variances from budget
- Budget versus actual report on a month and year-to-date basis as well as identifying the full-year budget
- Listing of all major outstanding debtors and creditors
- Bank reconciliation (including bank account evidence).

**Commentary and guidance:** The organisation should have a one-year fully costed operational plan, as well as having a more strategic 3-5 year financial plan that should link the financial objectives of the organisation with that of its strategic objectives. It is critical that all directors understand and take their financial responsibility on the board seriously by ensuring they are able to comprehend and challenge the financial information presented to them by management. It is critical that the board has detailed knowledge of the financial health of an organisation, as it is illegal for an organisation to trade while insolvent and the directors could be held personally responsible.

**Principle 4.5:** That the full board of directors should annually meet and be debriefed by the external auditor on the state of the financial position and systems within the organisation and any issues identified throughout the audit process.

**Commentary and guidance:** To ensure that each director can fully extinguish their fiduciary responsibilities, it is good practice that the full board meets with the external auditor annually to discuss the findings of the audit and any identified issues that may have arisen from the audit. This open and frank discussion allows individual directors the opportunity to receive further clarification of any particular issues to ensure they fully understand the financial operations and health of the organisation.

**Principle 4.6:** That the board should regularly review and assess its own performance and the performance of individual directors, including that of the chair and its committees.

**Commentary and guidance:** Done well, board assessment can be an extremely productive process. A robust and successful assessment process will give the board:

- A balanced view of its performance, identifying the positive aspects of the board's operation and areas for improvement
- A benchmark against which the board can assess its collective and individual progress and performance over time
- A basis to establish agreed performance objectives for the board.
- The process should include mechanisms such as external facilitators, assessment questionnaires, confidential non-attribution interviews and a workshop of the findings. Additionally, 360-degree feedback from the likes of management and key stakeholders enhances the comprehensiveness of any program. An effective program should also include separate assessments of individual directors' performance and that of the chair.

## Principle 5: Member relationship and reporting

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

An effective organisation should ensure its members are:

- Consulted and involved in the development of the sport's strategic plan
- Supportive of, and actively involved in, achieving the outcomes of the national plan
- Well-informed and actively participating at its general meetings
- Regularly provided with timely and accurate disclosures on all material matters regarding the governance and performance of the organisation.

**Principle 5.1:** That 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.

**Commentary and guidance:** Existing boards should canvass the interests, aspirations and requirements of key members. The board should have in place a process that reports and receives feedback from members. All members should embrace the strategic plan of the sport and should work towards the achievement of its outcomes. In federated organisational structures it is essential that member bodies are working towards a unified strategic document and are held accountable for their outcomes.

**Principle 5.2:** That 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, in accordance with applicable legislation.

**Commentary and guidance:** It is a guiding principle of law that members must have the right to remove the board and change the constitution as they see fit, as they are ultimately the owners of the organisation. There may be circumstances where certain arrangements are in place that restrict the members' capacity to make change, however these should only be temporary measures in periods of instability and ultimate power should always return to the members.

**Principle 5.3:** That board directors should have no voting rights at general meetings.

**Commentary and guidance:** Where the membership of an organisation comprises other organisations, clubs or groups of individuals, board directors should not be eligible to vote at general meetings or annual general meetings. This ensures a clear separation between the 'owners' and the 'governors' of the organisation.

**Principle 5.4:** That the board should provide members with a comprehensive annual report outlining how they fulfilled the governance roles, achievements and 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.

**Commentary and guidance:** The system of governance should ensure that timely and accurate disclosures are made on all material matters regarding the organisation, including governance, financial situation and performance. It is not appropriate that these reporting documents are delayed. It is the board's responsibility to ensure the appropriate legal time frames are met.

Disclosure should include, but not be limited to, material information on:

- Any legally required information as per the relevant Act
- The financial operating results
- The entity's strategic objectives and goals
- Members of the board and key management personnel
- Material foreseeable risks
- Material issues regarding employees and other stakeholders
- Governance structures and policies.

## Principle 6: Ethical and responsible decision making

Each board should ensure and actively promote ethical behaviour and decision making within their organisation. Good corporate governance ultimately requires people of integrity to ensure that the reputation of an organisation is managed, protected and enhanced.

A culture of integrity and ethical behaviour is characterised by:

- An effective code of conduct
- Quality decision-making processes
- People of the highest integrity and ethical standards
- An intent to put the organisation ahead of individual gains.

**Principle 6.1:** That the board establish a code of conduct to guide directors, the chief executive officer and other senior management as to:

- The practices necessary to maintain confidence in the organisation's integrity
- The responsibility and accountability of individuals for reporting and investigating reports of unethical practices.

**Commentary and guidance:** The code of conduct should set out ethical and behavioural expectations for both directors and employees. It is critical that the board and senior management demonstrate, through their words and actions, absolute commitment to the code and stakeholders in its execution. Adherence to the code should be periodically evaluated and action taken, where necessary.

**Principle 6.2:** That the board ensure key decisions and actions are based on a thorough review of all available information and are assessed against the organisation's risk management framework and that these are documented.

**Commentary and guidance:** When organisations embrace opportunities to expand or promote the sport they should assess the opportunities against the risk framework and key strategic objectives of the organisation. There should be evidence of an evaluation of the benefits and risks prior to any key decision being taken by management or the board.

**Principle 6.3:** That the board ensure a business case is developed for each major project or significant event/activity prior to the organisation committing resources and that the worst-case scenario has been evaluated and can be mitigated/managed by the organisation.

**Commentary and guidance:** The development of a business case allows sporting organisations to embrace opportunities to expand or promote the sport through a major event/activity by assessing the ability of the organisation to sustain a worst-case scenario loss. Given that most sporting organisations have very limited available resources, the assessment of risk and opportunities is critical to the long-term viability of the organisation. To not develop business cases for major projects and events potentially leads to poor decision making and lack of awareness of the various scenarios that may play out, hence all major events/activities should be fully costed and assessed for variations from budgeted figures prior to the organisation committing scarce resources.

## 1.4 Governing Sport – The Role of the Board

(Source: Australian Sports Commission)

### What is 'Governance'?

There is no commonly agreed definition of governance. Some observations and regularly used descriptions include:

*"Directing and controlling the organisation"* **KPMG**

*"The essential functions common to most boards can conveniently be divided into three: those related to its performance, those concerned with compliance or conformance with laws or standards, and those related to its overall operations."*

**Henry Bosch. The Director at Risk. Melbourne: Pitman Publishing, 1995**

*"The exercise of establishing and monitoring necessary controls and strategic direction setting so that the organisation is equipped to respond to the changing circumstances and situations in the external and internal environments in order to meet the expectations and demands of owners and other key stakeholders"*

**Terry Kilmister. BoardWorks International**

*"The process by which a governing body ensures that an organisation is effective and properly run ... Governance is not necessarily about doing; it is about ensuring things are done"*

**Sandy Adirondack. The Good Governance Action Plan. London: National Council for Voluntary Organisations, 2002**

What is commonly agreed is that effective governance is an important ingredient in the ongoing growth and success of an organisation. Governance is more than just the board. The governance structure includes:

- The legal owners (members) - who are identified in the constitution and who are able to exercise certain rights under law and through the constitution and who represent the organisation as a whole.
- The board - which governs the organisation on behalf of the owners and is responsible for the strategic direction and performance of the organisation, the allocation of resources, the assessment of risks, compliance with legal obligations and reporting back to the legal owners.
- The chief executive officer - who engages staff and operates in accordance with the delegations and directions given by the board to carry out the day-to-day functions in running the organisation.

## The Role of the Board

*"The board's job is to create the future, not mind the shop"*

**John Carver. Boards that Make a Difference. San Francisco: Jossey-Bass, 1991**

The board's job is to govern the sports organisation; management's job is to run it. The board's primary responsibility is one of trusteeship on behalf of stakeholders, ensuring that the legal entity, the company or the association, remains viable and effective in the present and for the future. The board is ultimately accountable for all organisational matters.

The board has a number of key roles:

- Strategic planning - defining, driving and monitoring the organisation's strategic direction, priorities and results
- Stakeholder involvement - defining key relationships, interacting with stakeholders to inform them of achievements and ensuring that stakeholders have input into determining strategic goals and direction
- Enhancing the organisation's public image - promoting the organisation in a positive light and performing 'ambassadorial' duties
- Organisational performance - reviewing, monitoring and ensuring management and organisational performance
- Reporting - reporting to members and stakeholders at the annual general meeting
- Policy formulation - establishing the board-level policy framework for governing the organisation, from which all operational policies and actions are developed
- Management of chief executive officer - appointment, performance management and review, providing advice and guidance and rewarding the chief executive officer as appropriate
- Legal compliance - monitoring organisational compliance with relevant federal, state and local legislation, and the organisation's constitution
- Management of financial resources - approving the allocation of funds through the annual budget, striving to secure the resources required and ensuring sound financial management of the organisation
- Risk management - ensuring the risks facing the organisation are identified and assessed, ensuring a risk management plan is established, regularly reviewing this plan to ensure its effectiveness, and monitoring compliance with it
- Board effectiveness - carrying out board business through productive meetings, engaging in regular self-assessment and evaluation, and initiating board development activities, to strengthen its effectiveness.

## The Role of the National Board in a Federal Structure

Most Australian sporting organisations operate within a federal structure with a national office and state and territory associations. The role of the national board is to govern the sport throughout Australia, that is, to govern in the best interests of the sport as a whole on behalf of all stakeholders. Board members of the national body have a legal duty to the national board and the national organisation. Affiliation and loyalty to other constituencies, for example state associations or subgroups, must take second place to their duty to the national board. They also have a moral duty to all stakeholders of the sport to act in the best interests of the sport. It is not uncommon for board members of a national board, nominated by their state and territory associations, to feel obligated to represent or advocate the interests and concerns of that state group. When decisions are made for the sport, national board members are required to be mindful, but independent, of the expectations of individual member bodies. Ideally, national board members should not be office-holders or employees of state associations of that sport.

## What if our Organisation does not have a Chief Executive Officer?

Where a sporting organisation does not have a chief executive officer or equivalent position, either paid or unpaid, management and operational tasks may be delegated to a range of people, including board members. In this case, directors must ensure that they separate their strategic board roles and responsibilities from their individual operational responsibilities. This may be done by the board setting aside part of its meeting to deal with governance responsibilities, for example strategic and financial issues, and part to deal with operational and management responsibilities, for example reports from directors and volunteers.

## The Role of the Chairperson

The chairperson is responsible for leadership of the board, ensuring its effectiveness in all aspects of its governance role. The chairperson is pivotal in creating the conditions for overall board and individual board member effectiveness and ensures constructive relations between board members and staff. The chairperson's role and responsibilities include:

- Representing the board - the chairperson is usually the board's representative to outside parties, though this responsibility may be delegated as appropriate
- Setting the agenda and ensuring board members receive timely and clear information - the agenda should take full account of the issues and concerns of all board members. Agendas should be forward-looking and concentrate on strategy, rather than focusing on management issues
- Managing board meetings - direct or control meetings to ensure that sufficient time is allowed for discussion of agenda items and proper decision-making takes place
- Liaising with the chief executive officer - while the board has responsibility as employer of the chief executive officer, the board is usually represented through the chairperson in managing the working relationship with the chief executive officer
- Board member development and encouragement - taking the lead in inducting and developing individual board members, with a view to enhancing the board's overall effectiveness as a team
- Performance assessment - ensuring that peer and self-assessments of performance are undertaken regularly for all members of the board, including the chairperson. The chairperson may delegate certain aspects of his or her authority but remains accountable for the action of the delegate.

The chairperson is bound by the board's governance policies and decisions and thus has no authority to alter, amend or ignore these. The position of chairperson does not create of itself a right to independent decision taking. The chairperson may exercise those powers delegated to the position by the constitution or board. It is useful to have a written document that details the decision-making powers of the chairperson.

## The Role of Board Committees

Board committees support the board in ensuring that it complies with good governance expectations. They are different from management committees, which ensure sound management of certain programs or functions.

Board committees may include:

- Finance or audit committee - to carry out certain financial delegations on behalf of the board, for example liaison with the external auditor, monitoring major financial systems and processes
- Remuneration committee - to manage the chief executive officer's salary and performance processes. Governance committee - to assist the board with its internal processes, for example recruitment of board members, board effectiveness review.

Board committees should be designed to assist the board to do its work, taking great care not to undermine the board's delegation to the chief executive officer by intruding into management matters.

Each board committee should have a 'terms of reference' defining the role of the committee, the extent of its authority, its structure and membership, and its reporting requirements.

## The Role of Management Committees

Many sports' boards or chief executive officers develop a range of specialist committees, such as technical committees, rules committees, sports development committees, high performance committees and officials committees. Some larger sporting organisations are able to delegate many of these functions to specialist staff rather than to committees. When such delegations are made to committees, board members must accept that these are management committees rather than board committees, irrespective of any involvement on the committee by a board member. They are usually designed to support the work of, and report to, the chief executive officer or other specified person under the committee's terms of reference. The chief executive officer would report to the board on those aspects of the delegation relevant to the business of the board.

Each management committee should have a 'terms of reference' defining the role of the committee, the extent of its authority, its structure and membership, and its reporting requirements.

## Board Member Competencies

Effective directorship requires certain skills and attributes. Whenever possible, the composition of a board should be planned so that the right people with the right skills are elected or appointed. To facilitate this, it may be necessary to educate voting members about the board's needs and issues for the coming period. Director and officer succession planning processes are increasingly being used by boards to facilitate appropriate board composition.

The skills and competencies for board membership include:

- The ability to think strategically
- Oral communication skills, including listening and the ability to present points of view coherently and persuasively
- Financial literacy and financial analysis skills
- The ability to understand and relate to stakeholders
- Analytical and critical reasoning skills
- Being a team player
- Being ethical, honest, open and trustworthy, a high level of personal integrity
- Independence and inquisitiveness
- The willingness to commit the time and effort required to do the job properly
- The courage of convictions coupled with a willingness to listen to other perspectives
- The ability to establish quality peer relationships

- A stewardship orientation (that is, protecting and maintaining order for the benefit of current and future generations of participants)
- Broad business experience
- Understanding and experience in the sport
- Community/stakeholder connections and influence.

## Responsibilities of the Board

**Legal responsibilities**

*"For all directors new dangers have become apparent and the directorial task has taken on a new reality. Prudence requires that it be approached with far greater care and professionalism than has hitherto been considered necessary"*

**Henry Bosch. The Director at Risk. Melbourne: Pitman Publishing, 1995**

The legal entity, that is, the company/incorporated association, has an existence independent of its members.

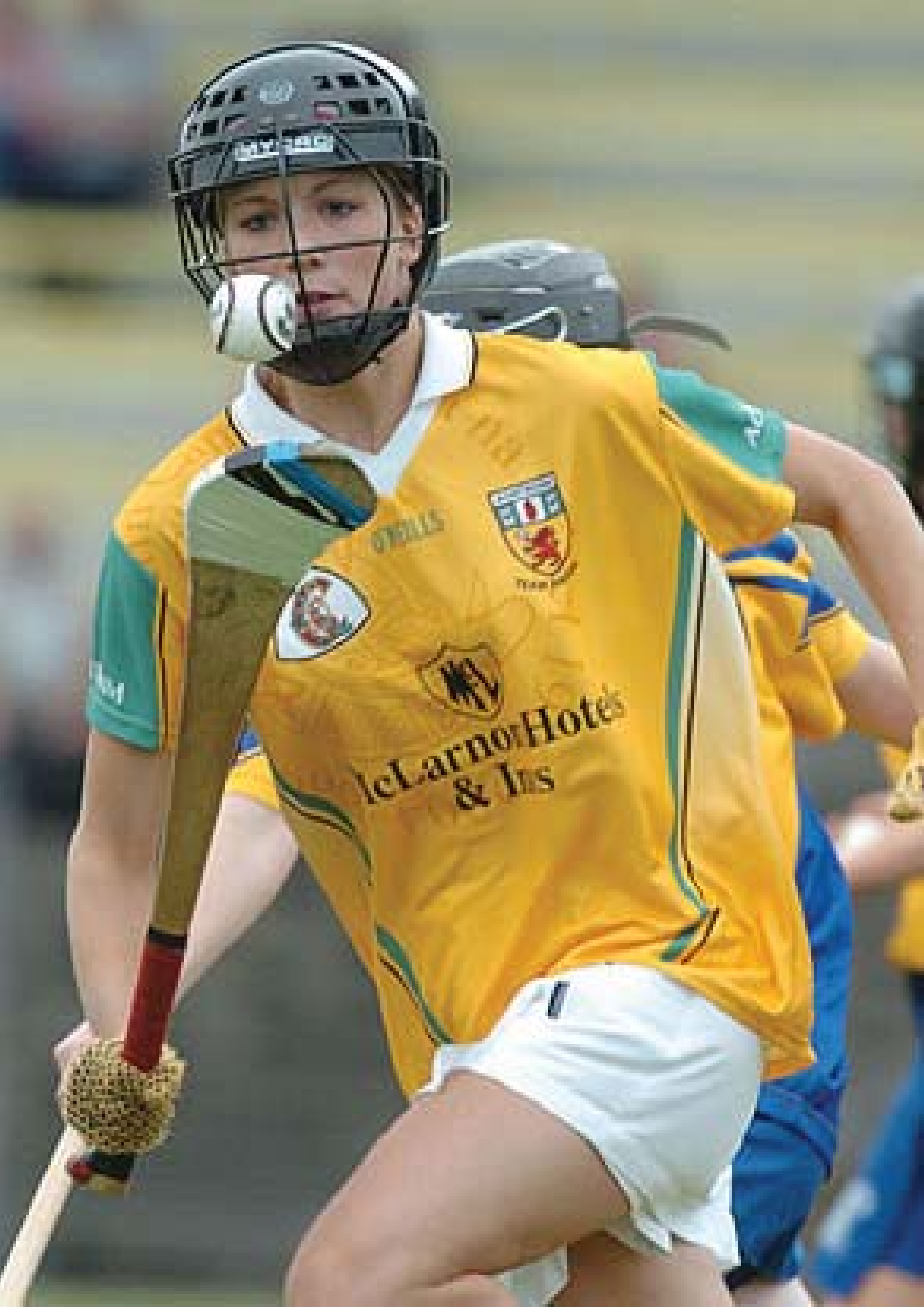
A board member's first duty is to the legal entity, in other words directors must ensure that the company or association meets all requirements in law. These laws may be extensive and will include corporations' or associations' law, and common law.

The organisation's company secretary or public officer must ensure that the organisation complies with the appropriate legislation for which that position is responsible. The board should monitor this compliance. The board is ultimately accountable for the performance of the organisation. Each board member is responsible for all decisions taken by the board. This means that board members share a common liability and they could be sued individually or collectively (jointly or severally) in the event of a determination that the board failed to properly exercise its duty of care or knowingly acted in breach of the law.
Board members of companies limited by guarantee and incorporated associations have the same duties and responsibilities.

These include:

- Acting honestly and in good faith
- Exercising a 'reasonable' level of care and diligence in order to meet their duty of care
- Not making improper use of information acquired by virtue of their directorship of the organisation to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the organisation
- Not making improper use of their position to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the organisation
- Complying with all relevant legislation
- Acting in the best interests of the organisation as a whole
- Exercising decision-making based on the 'reasonable person' test, that is, exercising a level of care and diligence that a reasonable person in a similar position would exercise
- Ensuring the proper keeping of records, registers, accounts, reports and lodgement of documents
- Ensuring that the organisation only exercises those powers and functions permitted to it under its constitution and rules.

The constitution defines the organisation's rules, including its governance structure and processes, for example, election of board members and office holders, powers of the board, annual general meeting procedures and procedures for winding-up.



The board must ensure that the integrity of the constitution is maintained. The law requires all board members to declare any conflict of interest relating to meeting their responsibilities as board members. The board should have a conflict of interest policy that describes the processes to be followed when a conflict is identified. Typically, when a conflict of interest is identified, the board member concerned is required to leave the room and play no part in any discussion or vote on the issue relating to the conflict of interest.
Conflicts of interest may be 'pecuniary', that is, involve the board member in financial dealings with the board, or may be non-pecuniary, for example, if there is family member or personal involvement in the matter under discussion.

Non-pecuniary conflicts of interests are less likely to occur when board members are independent rather than representing a particular member or group of members. The organisation and the board are required to comply with a wide range of legislation covering such areas as employment, trading, and occupational health and safety. The board should be aware of the scope and general content of such legislation and its relevance to the organisation.

Directors have certain responsibilities in relation to the accounts of the organisation, namely:

- Ensuring that proper books of account are kept
- Providing assurance that the published accounts give a fair and true view of the organisation's financial position
- Providing assurance that the organisation is able to pay its debts (is solvent).

## Strategic Responsibilities

*"The board's first responsibility is to ensure that the organisation has clearly established goals; objectives and strategies for achieving them; that they are appropriate to the circumstances and that they are understood by management".*

**Henry Bosch. The Director at Risk. Melbourne: Pitman Publishing, 1995**

It is the board's job to establish the organisation's strategic direction. This will be reflected in the strategic plan, which will typically include:

- A mission statement or statement of purpose
- The board's vision for the organisation
- A statement describing the organisation's philosophy or values
- A 'snapshot' or pre-plan position of the organisation at the start of the period covered by the plan
- A SWOT analysis of the internal (strengths and weaknesses) and external (opportunities and threats) operating environment
- Clearly stated organisation-wide results or outcomes to be achieved, often referred to as Key Result Areas
- Each Key Result Area to have broadly stated objectives with related strategies and performance indicators.

The board develops the strategic direction and strategic plan in partnership with the chief executive officer and staff of the organisation and the sport's key stakeholders.

Regardless of how the strategic direction and strategic plan is developed, it must ultimately be 'owned' by the board. Once adopted, only the board can change the strategic direction or alter the Key Result Areas.

The process of developing the strategic direction and strategic plan and ensuring that they remain up to date and relevant is called 'strategic thinking'. Strategic thinking involves constant analysis and assessment of external and internal factors that might inhibit or help the organisation to achieve its Key Result Areas, and results in decisions taken by the board and the chief executive officer to ensure sound, appropriate ongoing operations. Time should be set aside at every board meeting for strategic thinking.

All further operational plans should be consistent with the strategic direction and plan. Depending on the organisation's needs, these may include operational/business, marketing and high performance plans. Each of these plans should work towards achieving the strategic initiatives identified for each Key Result Area in the strategic plan.

Development of operational plans designed to achieve the strategies is the responsibility of the chief executive officer.

Generally speaking, the board should play no part in developing operational plans beyond setting the strategic direction and strategic plan. Some smaller sporting organisations with limited employees, however, require the practical support of board members to assist with certain aspects of the organisation's operations such as planning. When this is the case, care must be taken to ensure that the chief executive officer leads the process so that the plans are grounded in reality and are achievable.

To ensure sound management, the board may wish to view the chief executive officer's operational plans; it does not, however, have a role in developing or adopting these plans.

The one exception to this general rule is the organisation's budget, which the board must review, approve and monitor. The board should constantly evaluate progress made towards the achievement of the desired outcomes defined in the Key Result Areas.

## Financial Responsibilities

*"Nothing gives boards more concern than the handling of money. They worry far more about how funds are protected and spent than about the most crucial accountability: whether total expenditures produce a sufficient human outcome"*

**John Carver. Boards that Make a Difference. San Francisco: Jossey-Bass, 1991**

## Financial Governance

Financial governance entails setting financial policies within which the chief executive officer must carry out day-to-day financial management, and monitoring the effective implementation of these policies. Financial 'governance' is different from financial 'management', the latter being the responsibility of the chief executive officer.

The board must perform sound financial governance, and ensure sound financial management of the organisation.

The board's financial governance policies might address some or all of the following:

- Chief executive officer expenditure authority
- Budgeting and financial planning
- Reserves
- Investments
- General guidelines for financial management and overall financial condition
- Employee remuneration and benefits
- Protection of assets

- Financial reporting required by the board.

The external auditor is accountable to the board, not to the chief executive officer.

When a board establishes a finance or audit committee, this committee works on behalf of the board to:

- Provide assurance of the integrity of the organisation's financial systems
- Be the board's link to the external auditor
- Carry out periodic internal audits of financial systems and processes
- Make recommendations to the board about financial policies
- Obtain management responses to issues
- Assist the chief executive officer to interpret the board's financial policies
- Carry out financial and other risk assessments.

The finance or audit committee is chaired by a director with appropriate financial expertise and does not include the chief executive officer or finance officer or bookkeeper as a member, as the committee will need to review the financial practices involving these positions.

## Financial Planning

The annual budgetary process is the means by which the organisation establishes how it will fund its activities and what costs it will incur in order to achieve its desired outcomes. The budget thus reflects the organisation's overall strategic plan and Key Result Areas for the year.

The budgeting process should begin with the board determining the criteria for financial planning, including the 'financial state' the organisation should be in at the end of that financial year, for example, with a certain allowable deficit, a target surplus, a balanced budget, or some variation on these.

The budget is adopted by the board. By approving a broad rather than a highly detailed budget, the board empowers the chief executive officer to make necessary adjustments in response to minor changes in operating conditions without having to go back to the board for approval. The budget should be regarded as a 'live' management and governance tool that is subject to regular review and readjustment.

## Financial Reporting

In addition to viewing financial reports regularly, the board should also require evidence of compliance with the board's financial policies. The chief executive officer (or finance officer) should present financial reports to the board at every board meeting, typically monthly. When a board meets on a less frequent basis, say every two or three months, financial reports should be distributed to board members monthly.
The board is required annually to prepare an accurate and up-to-date statement of the organisation's finances for the year ended for all members and, where relevant, for government agencies and funding bodies.

All board members share equal responsibility to monitor the financial health of the organisation. Board members should never defer to the treasurer's or a committee's views without first considering the issue themselves.

As a minimum, financial reports to the board should include actual income and expenditure and budgeted income and expenditure for both the most recent month or period and year-to-date, along with written explanation of significant variations between these figures.

## Moral Responsibilities

"The board system rests on the premise that the directors, and through them, management, are accountable for serving as agents of the business"

**Leighton, D and Thain, D. Making Boards Work. Toronto: McGraw-Hill Ryerson, 1997**

Board members share a common 'fiduciary' duty, that is, they are trustees on behalf of stakeholders for:

- The achievement of appropriate outcomes
- The financial security of the organisation
- The expression of a moral and social responsibility to the members and the community at large.

Board members, as trustees of the organisation, have a moral duty to the sport. This involves keeping up to date with the sport they represent and sporting matters generally, and presenting their organisation and the sport it represents in a positive manner.

Board members have a moral duty to remain up to date with the concerns and expectations of stakeholders and to ensure that these receive proper consideration at board or management level.

In keeping with its duty to serve the interests of the sport as a whole, the board has a moral obligation to keep all members (and where relevant, key stakeholders) informed about current and future organisational matters of concern to them.

The board has a moral responsibility to establish and maintain an open and frank relationship with the chief executive officer. This entails carrying out all employer-related duties consistent with the law and in a manner that creates an open, honest and productive working relationship leading to the achievement of board-established outcomes and, in general, an effective organisation.

The board has a moral obligation to consider matters on the basis of equity and transparency and in the interests of the sport as a whole, and not in preference to any one or more classes of stakeholder.

## Organisational Risk Responsibilities

*"And the trouble is, if you don't risk anything, you risk even more"* **Erica Jong**

Risk is an inevitable and unavoidable component in organisational growth and development, providing both opportunities and potential threats to the health of an organisation. 'Risk management' is the means by which the board and the chief executive officer ensure that the risks faced do not result in significant loss or harm to the organisation.

Risk management involves not only taking protective measures but also evaluating opportunities and, where appropriate, taking considered risks designed to facilitate the growth and development of the organisation.

The board should have a broad appreciation of the risks facing the organisation and the likelihood of occurrence together with the potential impact of these should they occur.

The board should ensure that a risk management plan for the organisation is developed, usually by the chief executive officer. Such a process may involve identifying the risks facing the organisation, assessing the level of threat each presents, deciding what action to take in response to each risk and ensuring effective chief executive officer response to the risks through regular monitoring and review.

Typical organisational risk categories include:

- Financial
- Human resources
- Reputation
- Client/athlete harm
- Governance
- Technology
- Stakeholder relations
- Strategic
- Occupational health and safety
- Harm to or loss of physical assets.

Having established the level of acceptable risk and developed an appropriate plan, it is the responsibility of the chief executive officer to implement the plan by taking actions necessary to minimise the negative impact and maximise the positive opportunities arising from risk-taking.

## Chief executive Officer Appointment Responsibility

*"A strong CEO needs a strong board"*

**John Carver. Boards that Make a Difference. San Francisco: Jossey-Bass, 1991**

In appointing its chief executive officer, the board should take every care and make every effort to ensure that:

- It canvasses the field of all available candidates in order to attract the best person for the position
- the suitability of short-listed candidates is thoroughly assessed for organisational cultural compatibility, appropriate skills and an understanding of the organisation's business Governing Sport -- the role of the board © 2005 Australian Sports Commission
- The successful candidate fully understands what will be required of him or her in the role, that is, the key strategic issues, the policy framework (including the nature and level of delegated authority), the way the board works, reporting expectations and all terms and conditions of employment.

The chief executive officer is the only direct employee of the board, all other staff being employed by the chief executive officer.

## Responsibility to stakeholders

*"[Organisational] ... learning comes not just from the directors, but from all members of the organisation and from those outside it. The information and "wisdom" of all stakeholders in and around the organisation is a valuable commodity which directors need to appreciate and use."*

**Bob Garratt. The Fish Rots from the Head. London: HarperCollinsBusiness, 1996**

Stakeholders are those groups and individuals who benefit in some material way from the existence of the organisation.

Boards of sporting organisations typically have three key groups of stakeholders:

- Stakeholders who are legal owners - members, as identified in the constitution, own the organisation. Legal owners have the right to make changes to the constitution, to appoint or elect members to the board,

and to determine that the organisation should wind-up or close. For example, the state associations are the legal owners of the national body of most sporting organisations. The legal owners of the state associations are typically individual clubs or athletes/players
- Stakeholders who are moral owners - are those people for whom the organisation exists but who cannot exercise the same rights as members. This may include players, coaches, officials and others involved with, or with an interest in, the sport
- Stakeholders with whom the organisation has a business relationship - includes all those individuals, companies, or entities with whom the organization establishes a contractual relationship. Included in this group are the employees of the organisation, funding bodies, the suppliers of goods and services, and the general public as paying customers.

The board is accountable in the first instance to its legal owners then to its moral owners. Accountability to those with whom the organisation has a business relationship is based on the nature of the relationship or the business contract.

Certain stakeholders or stakeholder groups might contribute to the overall governance and management of the organisation by:

- Taking part in the strategic direction-setting process together with the board and staff
- Taking part in focus groups initiated by the board or by the chief executive officer
- Taking part in surveys, feedback mechanisms and other forms of communication initiated by the board or by the chief executive officer.

## Rights of Board Members

In order to effectively satisfy their legal and moral responsibilities, board members have a right, in relation to sound governance decision-making, to:

- Receive or access information from management or staff in a timely manner
- Question management and receive truthful responses
- Access professional advice
- Have their views heard by fellow board members.

*“It’s not rules and regulations. It’s the way people work together”*

**Jeffrey Sonnenfeld. Harvard Business Review. September 2002, vol. 80**

## Working as a Team

At the core of board and organisational effectiveness is the ability of directors to work together as a team. One of the greatest challenges facing boards is the ability to achieve consensus and cohesion while at the same time encouraging diversity and legitimate dissent.

The following factors contribute to the development of an effective board team:

- The skills mix of the board is appropriate to its role and tasks - there is agreement that the board will ‘speak with one voice’ about all policy matters when communicating with the chief executive officer and the outside world
- There is a robust and productive partnership with the chief executive officer in which both good and bad news is shared openly and in a timely fashion.
- There is a positive and constructive boardroom culture in which all directors know that their contribution

is valued
- There is a good balance between talking and listening. Board members are willing to suspend judgement until an issue is fully canvassed and all perspectives are aired
- The chairperson manages the meeting processes so that issues before the board are adequately addressed. Agenda and time management facilitate appropriate attention to board issues
- Legitimate dissent and diversity are viewed as healthy components in boardroom dialogue and encouraged so that the full range of views, opinions and experience are available to support board decisions
- The views of management are sought and valued
- Board members can ask tough questions without management becoming defensive.

## Developing Policies

*"Policies are an expression of the values and perspectives that underlie organisational actions"*

**John Carver. Boards that Make a Difference. San Francisco: Jossey-Bass, 1991**

The board has a responsibility to ensure that appropriate by-laws, policies and procedures are developed to provide for the proper delivery and control of the sport and the protection of its participants.

## What are Policies?

Policies describe the course or general plan of action adopted by an organisation. Policies define what should or should not be done at all levels in the organisation. Effective policy writing uses words carefully in order to ensure precise meaning or intention, always aiming to convey the greatest meaning with the fewest words.

Policies can be written prescriptively -- stating what must or should happen, or proscriptively -- stating what must not or should not happen.

Policies typically relate to two levels of the organisation:

**Governance policies.** These are developed by the board and relate to the board's role and functions, including its interrelationship with, and delegation to, the chief executive officer. These might, for example, include:

- Chief executive officer remuneration policy
- Financial delegation and procurements policy
- Board-staff communications policy
- Board conflict of interest policy.

**Operational policies.** These are written by the chief executive officer and relate to the organisation's operational functions. These might, for example, include:

- Team selection policy
- Staff development policy
- Facilities maintenance policy.

## Governance Policies

The board develops its own governance policies.

The board establishes its leadership role via its development, adoption and review of governance policies.

Once adopted, the board should have in place a process which ensures that the policies are applied.

The board develops its governance policies to the point where it is confident that it has said all it needs to say, and that users of the policy will be able to adequately interpret the policy in order to achieve the outcome intended.

Only the board can develop, adopt, amend or rescind its governance policies. The board should systematically review all governance policies on a regular basis.

It is recommended that the board should develop policies to address:

- Its internal governance processes and procedures
- Its delegation to, and relationship with, the chief executive officer
- Its commitment to the organisation's strategic position and philosophy, that is, a strategic direction or strategic plan that includes a statement of the organisation's values
- Its financial policies.

Board committees or working parties are often used to carry out the groundwork or research leading to the development of a governance policy. Professional organisations (such as the Australian Institute of Company Directors) and government organisations may be a good referral point for assistance.

All board members are bound by governance policies, which help the board to speak with one voice. The chief executive officer should report to the board on compliance with the chief executive officer delegation policies, together with the achievement of strategic outcomes as defined in the strategic plan.

The board should regularly review its delegation to the chief executive officer to ensure that this remains current and facilitates the achievement of the best outcomes by management.

## Operational Policies

The chief executive officer is responsible for developing operational policies that complement the governance policies and carry out the actions or achieve the results stated in governance policies.

While operational policies are 'owned' by the chief executive officer, they must be aligned with the board's governance policies. The board should not adopt or approve operational policies. It can, however, seek to satisfy itself that operational policies are appropriate. The chief executive officer's ability to make necessary operational policy changes should not be restricted or delayed through a need to refer them for board approval.

## Board Processes and Practices

"The board must strive to be as good at its job as it expects the CEO and staff to be at theirs"

**Terry Kilmister, BoardWorks International**

The board is responsible for systematically designing its own processes and practices. Certain governance processes are specified in the constitution, for example, number of board members, board officers, board member appointment and election processes, requirement for and processes for calling and running annual general meetings or special general meetings.

The board must comply with the organisation's constitution.

All new board members should receive a formal induction into the board and the organisation. Such an induction should include receiving a full set of governance documentation, such as the strategic plan, the constitution or rules, all governance policies, up-to-date financial position and, prior to the first board meeting, a meeting with the chairperson and the chief executive officer to become familiar with both board and operational processes and issues.

The board should approve a budget developed by the chief executive officer (or the finance committee) for the organisation, and regularly monitor compliance with this throughout the year.

The board should set aside funds sufficient to meet its own operating needs (for example, meeting costs, governance training, attendance at conferences and seminars) and for contracting external personnel such as an external auditor, consultants and so on.

## Board Meetings

Board meetings should focus on governance matters affecting the control and direction of the organisation, such as policy making and review, financial health of the organisation, strategic thinking and progress towards Key Result Areas, and legal compliance, rather than on administrative and operational matters.

Board meetings should reflect an appropriate apportionment of focus between compliance with formal requirements, for example, monitoring financial performance, and monitoring overall achievement of Key Result Areas and engaging in strategic thinking.

The board meeting is an ideal forum for the board to engage in strategic thinking in order to ensure the ongoing relevance and appropriateness of its strategic plan and Key Result Areas. The meeting should adopt a future focus building on past learning.

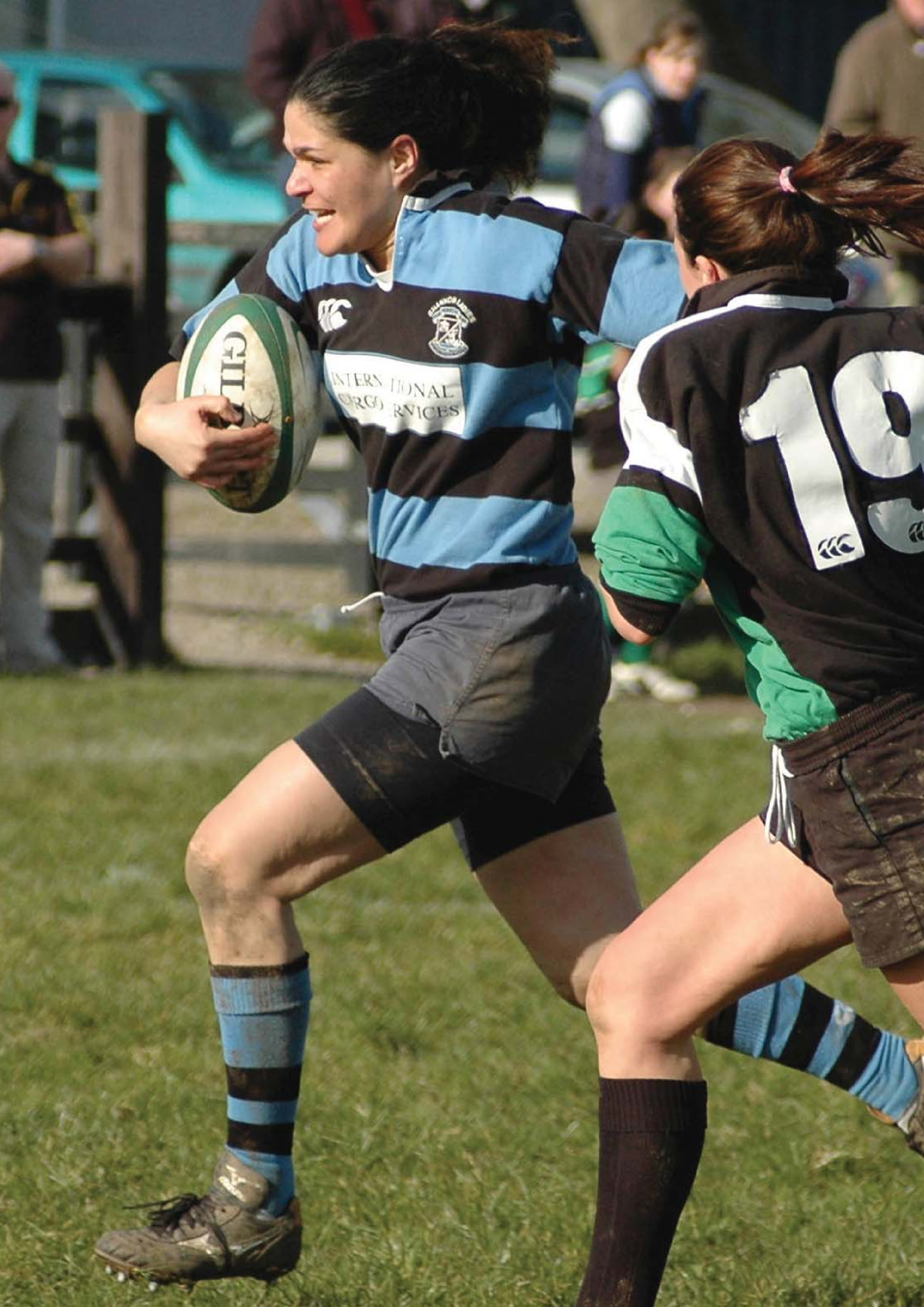
Board meetings should be managed in a manner designed to encourage diversity of opinion, ensuring input from all board members as appropriate without prejudicing effective and efficient decision-making.

All board members have equal rights at the board meeting. This includes the right to:

- Have their questions, opinions and views heard
- Question the chief executive officer
- Vote on an issue or refrain from voting
- Have their vote recorded in the minutes or record of the meeting
- Receive information relevant to the board meeting (agendas and papers) in time to prepare for the meeting.

The board as a whole should develop an annual agenda at the commencement of the governance year, identifying key governance responsibilities and events and programming these into the year's board meetings. With the annual agenda as the basis for all board meetings, the chairperson, with input from other board members and the chief executive officer as appropriate, should shape the agenda for each board meeting.

Meeting agendas should include, as a regular item, the opportunity for individual board members to declare any existing or potential conflicts of interest regarding items on the agenda, before these items are discussed at the meeting.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The board should meet as often as is required to carry out its governance duties. Typically, boards of sporting organisations meet monthly or every second month. Board meetings should take as long as is required to carry out the board's governance responsibilities.

The board should ensure that appropriate records of board meetings are kept to provide an accurate account of decisions reached.

Neither the chief executive officer nor any board member should be required to take minutes at the board meeting, as this removes them from participating fully. Rather, the board should engage a meeting secretary or use a staff member to fulfil the role of minute taker.

## Board-Chief Executive Officer Relationship

**Role of the Chief Executive Officer**

The board's basic operating assumption must be that the chief executive officer is fully competent to manage the organisation; the chief executive officer therefore should be delegated maximum authority to manage all operational matters. In larger sporting organisations this might include the appointment of administrative, coaching and technical staff.

An effective and productive board-chief executive officer relationship is built around:

- Mutual respect for their separate but mutually interdependent roles and responsibilities
- A clearly defined and documented delegation, including the authority to appoint and manage personnel
- A clear expectation that the chief executive officer will be held accountable for the performance of the organisation within the bounds of the delegation
- Mutual agreement about the limits to the freedom granted to the chief executive officer in order to carry out his or her role and tasks
- Clearly defined, unambiguous results to be achieved
- A fair and ethical process for evaluating chief executive officer effectiveness
- An expectation that the expertise and experience of individual board members will be available to the chief executive officer as advice, not as instruction
- A commitment for the board to 'speak with one voice' on all matters relating to the chief executive officer, such as policy, strategic direction and performance expectations
- Regular and objective feedback and two-way dialogue about important performance matters.

Once the board has made clear the extent of its delegation to the chief executive officer, it must respect that delegation and allow the chief executive officer the freedom to manage the organisation to the best of his or her ability.

Board members, on the invitation of the chief executive officer, might participate in the recruitment and selection of senior operational staff. Such participation should be advisory, the final decision remaining with the chief executive officer. Board members should, subject to any directions issued by the board, feel free to liaise with appropriate staff and, in so doing, must take all care to ensure that they do not instruct staff or undermine the chief executive officer position and legitimate authority. All board member-staff member relationships should be informal except in extraordinary circumstances involving certain chief executive officer performance issues before the board, such as a gross violation of the position (for example, chief executive officer theft). At the very least, board members should know the key staff and their roles, and staff members should know who is on the board.

## Chief Executive Officer Authority

An essential element in the expression of the board's duty of care is a requirement that it should understand the risk environment and ensure that appropriate risk management strategies are in place. Many aspects of the chief executive officer's role place the board at risk. Establishing a clear, documented delegation to the chief executive officer is one way that a board can mitigate some of the risks associated with this area.

It is imperative that the chief executive officer knows the boundaries of his or her freedom to act without recourse to the board. With these made clear, the chief executive officer can get on with the job to be done without having to constantly refer to the board to seek permission to carry out operational functions. In turn the board, having documented the delegation, can have the confidence that the chief executive officer knows which things he or she is authorised to do and which matters are outside the delegation and must be referred to the board for a board decision. Such boundaries are best defined by using a proscriptive or limitations format, stating what cannot be done rather than what can or should be done. Alternatively (and more commonly) the delegations are defined as a proscription. Once established, these statements might be known as chief executive officer delegation policies.

Typically, the chief executive officer delegation policies will cover some or all of the following policy categories:

- Financial management, including budgeting, day-to-day financial management, procurement limits, financial reporting to the board, creation of and access to financial reserves, and investments
- Personnel management
- Stakeholder relations
- Protection of assets
- Payment of remuneration and benefits
- Reporting to the board
- Support and information for the board
- Public relations
- Emergency chief executive officer succession.

Once the boundaries are defined, the chief executive officer should be granted freedom to use his or her judgement to interpret the board's policies and make all appropriate decisions, and take all actions necessary to achieve the results sought by the board, always within the bounds of policy.

The board has the right to set as many boundaries as it chooses and to define these in whatever detail it considers necessary. The board can then feel confident that the chief executive officer can make decisions that the board will be able to support.

Organisational strategic direction, organisational values, Key Result Areas and board policies define further boundaries within which the chief executive officer must work.

## Chief Executive Officer Attending Board Meetings

The chief executive officer should attend every board meeting. The chief executive officer's advice should be sought in most matters coming before the board. In the not-for-profit sector, it is unusual for the chief executive officer to be a voting board member. However, where this is the case, it is strongly recommended that the board ensures that:

- The chief executive officer does not dominate governance discussions and decision-making. It is not uncommon when chief executive officers are on boards for other directors to defer to this person and, in so

doing, fail to fully carry out their legal and fiduciary duties as directors
- The chief executive officer does not use the board meeting as a forum for discussing a range of administrative and operational matters
- The chief executive officer does not unduly influence the determination of the Key Result Areas. It is the board's responsibility to establish results to be achieved, reflecting the views of a broad range of stakeholders, rather than simply rely on the views of the chief executive officer and staff
- The chief executive officer does not determine the meeting agenda. Where a chief executive officer determines the board meeting agenda, this commonly results in a focus on operational rather than governance matters.

## Right to Instruct the Chief Executive Officer

The chief executive officer should only receive instructions from the board, not from individual directors. Accordingly, the chairperson should not issue instructions to the chief executive officer that are not in accord with board policies and decisions. The chairperson and the chief executive officer may establish a regular forum for dialogue and to serve as a sounding board for chief executive officer decisions. When this is the case, great care should be taken to ensure that this interrelationship does not serve as a de facto board.

The chief executive officer-chairperson relationship can provide a useful forum for the chief executive officer to test interpretations of board policies and to discuss ideas and options. However, the chairperson should take care never to be tempted to give, or remove, permission to the chief executive officer to carry out operational actions.

All operational decisions, within policy, should be made by the chief executive officer who is then accountable for these decisions.

## Chief Executive Officer Effectiveness

The board is responsible for evaluating the chief executive officer's effectiveness. The chief executive officer should be evaluated only against previously agreed-to, objective criteria for which he or she has been delegated full operational authority. Such criteria typically include achievements against Key Result Areas, compliance with board directions to the chief executive officer and proper use of delegated authority (chief executive officer delegation policies).

The chief executive officer should not be held to account for the performance of personnel or groups over which he or she does not have full managerial authority. Only data relevant to agreed results or goals to be achieved should be considered as monitoring data.

Every board meeting and all chief executive officer reports to the board should be regarded as a component in the assessment of the chief executive officer's effectiveness.

While aspects of assessing chief executive officer effectiveness might be delegated to a subcommittee of the board, responsibility for the overall assessment belongs with the board as a whole. Ideally the chief executive officer assessment process should not be left to the chairperson alone to carry out.

Chief executive officer remuneration decisions should not be based solely on the outcome of the chief executive officer's formal performance appraisal. The size of the job, additional duties or work carried out, qualifications, market conditions, value to the organisation and special skills, all contribute to the decision.

## Board Evaluation

The board should evaluate its own effectiveness annually.

The board should explicitly set standards and performance expectations to provide a basis for a formal annual evaluation of its governance effectiveness. The board should assess its performance according to pre-agreed objective criteria, preferably derived from its own governance policies and processes.

Best practice approaches to board evaluation include:

- Setting time aside, at least annually, for the board explicitly to address its collective and individual member performance
- Using an independent facilitator or consultant to help the board design a suitable evaluation process and to ensure that this is carried out independently and confidentially
- Conducting peer and self-appraisal of all board members, and the chairperson.

The outcome of the evaluation process should be used as the basis for board and individual board member development goals, leading to an improvement in board performance over time.

## Monitoring and Evaluating the Organisation's Performance: A Continuous Job for the Board

*"The single most important thing to remember about an enterprise is that results exist only on the outside. The result of a business is a satisfied customer. The result of a hospital is a healed patient. The result of a school is a student who learns something and puts it to work ten years later. Inside the organisation there are only costs"* - **Peter Drucker**

Monitoring and evaluation are the means by which the board ensures that the organisation is performing to the standards expected. The board's monitoring should focus on the achievement of results rather than on the effort expended by the chief executive officer and staff.

The board should monitor compliance with its chief executive officer delegation policies and the strategic plan via a monitoring schedule that requires the chief executive officer to report against all policies and Key Result Areas.

The board may consider that some policies must be reported against at every board meeting, for example financial policies, while others might be monitored annually. The Key Result Areas will probably be reported on, to a greater or lesser degree, at every board meeting, with in-depth reporting against these on a scheduled basis, perhaps quarterly. The board meeting agenda should reflect the annual cycle of monitoring results and compliance reporting, specifying particular results to be reported.

The board's meeting schedule and contents should be planned ahead of time so that both the board and the chief executive officer are prepared for a discussion about results and achievements. Such pre-planning ensures a deliberate approach to board decision-making, thus avoiding ad hoc discussions about issues of the moment for which there is no time to prepare adequately.

Board monitoring should demonstrate a balanced, broad concern for all aspects of organisation performance, not focusing on one aspect, such as finance, to the exclusion of other matters.

The board may receive its monitoring information from a number of sources, including:

- Chief executive officer reports (internal reports)
- External reports, for example, by an external auditor or contractor
- The board's observations, investigations or evaluation.

## Organisational Structures

*"One size does not fit all. Boards are most likely to be effective if their structures are designed to fit the circumstances of their company and the role the board has elected to play"*

**Colin Carter and Jay Lorsch. Back to the Drawing Board. Boston, Massachusetts: Harvard Business School Press, 2004**

**Incorporation**

Sports organisations, like most not-for-profit organisations, are typically incorporated as either an incorporated association or a company limited by guarantee. Each state has its own incorporated associations legislation. While there may be minor differences in the various state and territory Acts, there is little significant difference between these. A sporting organisation formed as an incorporated association is limited to conduct its operations within the state of incorporation unless it is also registered in another state in which it intends to operate, or it is registered with the Australian Securities and Investments Commission as a registered body under the Corporations Act.

A company limited by guarantee is a public company as defined in the Corporations Act, which is a federal statute. Company status under federal law provides national sporting organisations with greater flexibility in that they can locate anywhere in Australia and be subject to one set of legislative requirements.

Board members of incorporated associations and companies limited by guarantee
should expect to apply the same set of duties and standards to their role. Companies limited by guarantee have certain reporting requirements that do not apply to incorporated associations, such as more stringent financial reporting and listing the directors of the company and any changes to that listing.

## Governance Structure

The organisation's governance structure is defined in its constitution. This reflects the organisation's purpose, role and membership.

Most governance structures include:

- A board of directors (company) or a committee of management (association) whose job is to govern the organisation on behalf of the members
- Governance documents that define the rules and regulations for operation, such as the rights of members, and members' power to alter the constitution or rules within the bounds of legislation (for example, members cannot change the percentage of votes required to bring about constitutional changes)
- The conduct of annual general meetings at which members:
- Receive reports from the board on organisational performance for the preceding 12 months
- Elect or appoint members to the board
- Approve changes to the organisation's rules or constitution
- A board committee structure
- Specialist office holders for such positions as chairperson or president, company secretary or public officer and committee chairs.

There is no single best structure for boards, that is, 'one size does not fit all'. The organisation's members should determine which structure and composition best fit their needs and, with awareness of general principles of good governance, create a board that meets the challenges facing the organisation and the sport.

Current governance thinking indicates that smaller boards of around seven members are likely to be most effective. Where it is deemed necessary that the board should have regular access to a broad range of members' or stakeholders' views, this should be provided for by forming advisory forums or committees.

It is relatively uncommon in the not-for-profit sector for the chief executive officer to be an executive director, that is, a board member with full voting rights. This is not to say, however, that this should not be the case. Indeed, in terms of legal accountability, the chief executive officer can be equally liable for decisions of the board even though they do not exercise a vote (a 'shadow director'). This is a matter for the members to determine and reflect in the constitution.

The role of the chairperson is a critical element in the structure of the board. While most boards regard their chairperson as a first among equals, a servant leader, nonetheless this role provides essential leadership to the board and organisation.

## Councils

*Note:* At times sporting organisations refer to their annual general meeting as a council meeting or annual meeting of members. The comments made about councils in this section do not relate to annual meetings of members, but to prescribed, intervening meetings of members e.g. quarterly, half-yearly where the council meets in order to give directions to the board.

Some governance structures also include a council that operates in between annual general meetings and gives directions to the board. These types of councils typically have historical significance rather than practical relevance and often duplicate the board's governance functions, responsibilities and accountabilities.

Councils are most common where an organisation comprises state or regional membership and the membership (at some stage in the past) has deemed it appropriate that there should be additional controls on the board's activities and freedoms.

In most modern governance structures, councils are an anachronism that typically result in:

- Unnecessary and confused duplication of governance responsibilities
- Council members having unrealistic and often unreasonable expectations of their actual power
- Council members being equally legally liable for the decisions made by the board yet not being a part of the decision-making process, nor realising the extent of their liabilities
- A greater risk of conflicts of interest occurring due to perceived loyalties or duties to constituencies or nominating bodies rather than acting in the interests of the sport as a whole.

Some councils are formally constituted, others are the result of a practice that has become normalised over the years.

Modern governance structures, well designed and well carried out, do not require nor benefit from the existence of a formally constituted council of members' representatives with decision-making capacity.
When a sporting organisation wishes to retain a council-type structure without the duplication of governance arrangements mentioned above, the following recommendations are offered:

- Councils can be used to good effect as communication channels but should not serve in a decision-mak-

ing or directing capacity
- Where a council is formally constituted, check to see that it does not duplicate the board's responsibilities or duties as defined in the rules or constitution. (It is often wise to seek legal advice when interpreting governance documentation.)
- With the help of your legal adviser and using the principles espoused in this guide, ensure that the board has all the appropriate authorities necessary to enable it to effectively govern the organisation
- With the agreement of members to restructure the governance bodies, remove all references to the council from the constitution or rules. (This will require special constitutional remit to be passed at a members' meeting)
- Redesign the council as a strategic forum, meeting once or twice a year to carry out one or more of the following functions:
- Informing the board of significant membership issues
- Assisting the board to review the organisation's strategic direction
- Meeting to discuss state-wide or nationwide issues
- Providing feedback to the board on the results of its governance decisions in practice at the member level.

Make provision in your constitution or rules for this newly designed member forum (or whatever name is chosen -- do not retain the name council).

Take care not to design governance or any other responsibilities that will or could conflict with or duplicate the board's role or any part of it.

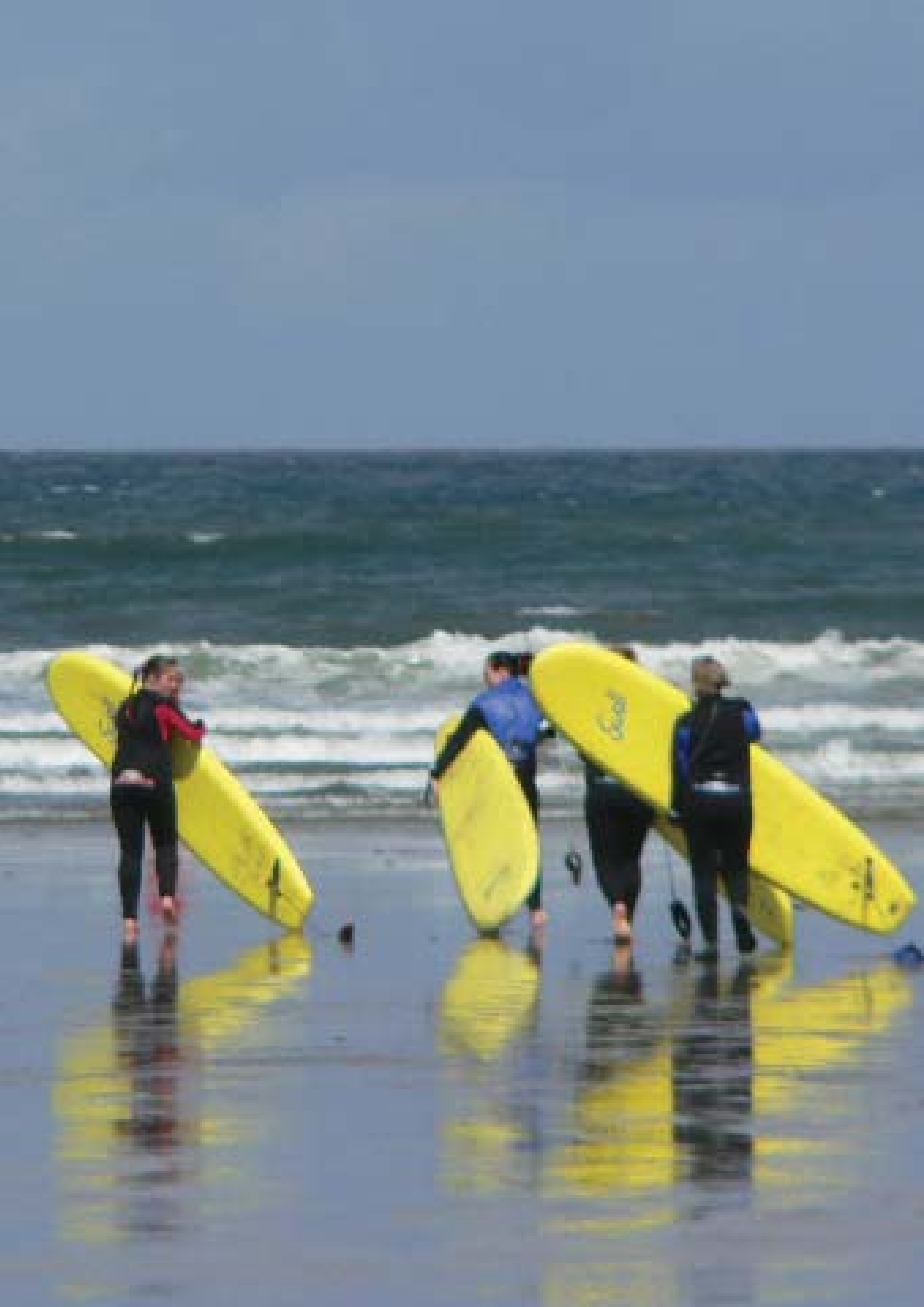
## Directors' and Officers' Insurance

Directors' and officers' insurance is designed to protect the director or officer in respect of personal liability they incur for wrongful acts committed by them while acting as directors or officers of the organisation. A wrongful act is usually defined as:
'any error, mis-statement or misleading statement, act or omission, or neglect or breach of duty made, committed or attempted in the course of performing duties as a director/officer'.

A person may be regarded as an officer of an organisation if:

- They are a member of a committee
- They are the public officer, secretary, treasurer or executive officer
- They take part in the management of the organisation
- They are an employee of the organisation.

The organisation should confirm with the insurer which officers are covered by a particular policy. Claims brought about or contributed to by any dishonest, fraudulent, criminal, malicious, wilful or reckless acts or omissions are not covered. Directors' and officers' liability policies usually provide cover in respect of legal costs associated with any claim covered by the policy, but this should be confirmed with the insurer. Risk coverage should not be restricted to directors' and officers' insurance. The organisation, in developing its risk management plan, should examine what other types of cover are required. These may include public liability (to an appropriate level), professional indemnity, player accident and injury cover, workers' compensation (Workcover), voluntary workers' insurance, occupational health and safety cover, property insurance and so on. In a climate of increasing insurance costs, boards should seek appropriate advice to ensure the maximum risk mitigation at the best price.



# 1.5 Downloads & Links

## Downloads:

- EU Guidelines on Principles of Good Governance for Sporting Organisations
- Governance Best Practice Checklist for NGBs
- Governance Template Roles
- Office of the Director of Corporate Enforcement Information Book – Companies
- Office of the Director of Corporate Enforcement Information Book – Directors
- Office of the Director of Corporate Enforcement Information Book – Members
- Office of the Director of Corporate Enforcement Information Book – Secretaries
- Office of the Director of Corporate Enforcement - Duties and Powers of Companies
- Office of the Director of Corporate Enforcement - Duties and Powers of Directors
- Office of the Director of Corporate Enforcement - Duties and Powers of Members
- Office of the Director of Corporate Enforcement - Duties and Powers of Secretaries
- Guidance Note on the Administrati on of Discipline in Sport

## Links:

- Boardmatch
  http:// www.boardmatchireland.ie
- The Office of the Director of Corporate Enforcement
  http://www.odce.ie
- Companies Registration Office
  http://www.cro.ie/_uploads/downloads/Infnote2v3.pdf
- SPARC – Nine Steps to effective Governance
  http:// www.sparc.org.nz/fi ledownload?id=03ab2975-e294-4f6c-8ff 9- 6b210df80b21

## Case Studies

- Swim Ireland Complaints and Disciplinary Rules and Procedures

## ISC Corporate Governance Seminar - 6 May 2010

- Governance Presentati on - Geraldine_Fahy