

Governance

Introduction

What is governance & management?

'Governance is the process by which a governing body ensures that an organisation is effectively and properly run....Governance is not necessarily about doing; it is about ensuring things are done.' (UK Trust)

'Corporate governance usually refers to the process by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation.' (Australian National Audit Office)

'The system by which entities are directed and controlled.' (OECD)

'Management is the process of getting activities completed efficiently and effectively with and through other people.' (Gulick & Urwick 1937. Papers on the Science of Administration)

In practice, governance and management are not as clearly distinguished as the above quotes suggest. Together, the board and the executive officer provide the leadership of the organisation.

Guidance Information

Code of Conduct clause 3.1

An organisation's governing instrument (constitution, articles of association, rules, by-laws or similar documents) will be consistent with legislative requirements and set forth the organisation's basic goals and purposes, define membership, governance structure of the organisation including the frequency of meetings (at least two a year) and the size of a quorum.

All signatories must have a written document (called a governing instrument in the Code) that sets out the goals and purpose of the organisation and defines how it operates. A governing instrument may be called a constitution, rules, articles of association or by laws.

The chart on the following page shows compliance indicators for clause 3.1 .

Code of Conduct clause 3.1

Code Requirement	Compliance Indicators
<p>An organisation's governing instrument (constitution, articles of association, rules, by-laws or similar documents) will:</p>	
<ul style="list-style-type: none"> be consistent with legislative requirements 	<p>The organisation can present information demonstrating that their governing instrument complies with relevant Commonwealth and state legislation.</p>
<p>T I P S</p> <p>The majority of signatories are incorporated as either incorporated associations or companies limited by guarantee. This means that they are formed in accordance with an Act of Parliament and registered as a legal entity with the state or federal government. Consequently, the governing instrument must comply with all relevant Commonwealth and state legislation.</p>	
<ul style="list-style-type: none"> set forth the organisation's basic goals and purposes 	<p>The governing instrument includes details of the organisations goals and purposes - objectives for a given year do not satisfy this requirement.</p>
<ul style="list-style-type: none"> define membership 	<p>The governing instrument defines:</p> <ul style="list-style-type: none"> who members of the organisation are membership rights and obligations.
<ul style="list-style-type: none"> governance structure of the organisation including the frequency of meetings (at least two a year) 	<p>The governing instrument defines:</p> <ul style="list-style-type: none"> how the governing body of the organisation is appointed/elected how often the governing body meets (this must be a minimum of twice a year).
<ul style="list-style-type: none"> and the size of a quorum. 	<p>The governing instrument defines the size of a quorum for meetings of the governing body.</p>
<p>T I P S</p> <p>Quorum refers to how many people (who are eligible to vote) are required to attend a meeting of the governing body for the meeting to be considered legitimate, ie. adequately representative of the membership rather than the interests of one or more individuals.</p>	

Code of Conduct clause 3.2

Each organisation will have a governing body elected/appointed by members from within the membership/supporters. The governing body will approve the annual budget and may delegate authority to staff or others but must accept ultimate responsibility for governance over all aspects of the organisation. There should be clearly defined lines of authority between the governing body and management.

Code Requirement

Each organisation will have a governing body elected/appointed by members from within the membership/supporters.

Compliance Indicators

The governing instrument defines the process for appointing/electing the governing body from the membership/supporter base.

TIPS

The Code of Conduct Committee is aware that operating structures vary considerably depending on the type of agency, focus etc. For example, church agencies are often established under the authority of the governing body of the church (synod, conference etc).

The status of member and supporter within organisations vary and are defined by individual agencies. However there are some common features:

In general, members:

- are defined by an organisation's governing instrument
- have a formal status which endows them with certain rights and responsibilities towards the organisation
- have to pay an annual membership fee.

In general, supporters:

- are not necessarily defined in the organisations governing instrument
- have a less formal status than that of membership.

The governing body will approve the annual budget and may delegate authority to staff or others but must accept ultimate responsibility for governance over all aspects of the organisation.

The powers and responsibilities of the governing body are clearly outlined within the governing instrument, terms of reference or operational guidelines and statutes.

The powers/responsibilities include:

- the power to delegate authority to officers, staff and others,
- a statement of the responsibility of the governing body for governance over all aspects of the organisation,
- approval of the annual budget,
- appointment of the organisations auditor
- receiving and reviewing the annual financial report.

TIPS

The governing body (board, executive committee or council) is responsible for ensuring the organisation does what is stated in its governing instrument.

The governing body may delegate some of its responsibilities to officers or staff but ultimately it is responsible for the organisation.

There should be clearly defined lines of authority between the governing body and management.

The roles and responsibilities of the governing body, management and staff are documented and clearly articulated to staff, management and the governing body.

Code of Conduct clause 3.3

There will be written policies covering appointment, termination and, where applicable, remuneration of members of the governing body. The organisation will have policies restricting the number of paid staff who are voting members of the governing body.

To ensure the integrity and accountability of an organisation's operations, there must be clearly documented operational processes for the governing body.

Limiting the number of paid staff on the governing body helps ensure there is balance between the interests of paid employees (staff) and the members represented by of the governing body in pursuing the aims of the organisation.

Code Requirement	Compliance Indicators
<p>There will be written policies covering appointment, termination and, where applicable, remuneration of members of the governing body.</p>	<p>The organisation has written policies covering:</p> <ul style="list-style-type: none"> • appointment, • termination, • (where applicable) remuneration of members of the governing body.
<p>The organisation will have policies restricting the number of paid staff who are voting members of the governing body.</p>	<p>The organisation (if applicable) has written policies restricting the number of paid staff who are voting members of the governing body.</p>

Code of Conduct clause 3.4

Members of the governing body, paid staff, and volunteers will make known to the governing body any conflict of interest or any affiliation they might have with an actual or potential supplier of goods and services, recipient of grant funds or organisation with competing or conflicting objectives. Members of the governing body and paid staff will absent themselves from discussion and abstain from voting or otherwise participating in the decision on any issue in which there is a conflict of interest. Large or otherwise inappropriate gifts to members of the governing body or staff for personal use shall be forbidden.

A conflict of interest arises when a person participating in decision making is able to gain or could be perceived as gaining:

- personal advantage from the outcome of the decision and/or
- advantage for another organisation/person with which they are involved,
- advantage due to access to privileged information.

To avoid the real or perceived conflict, an individual must make known the interest and absent themselves from the discussion and decision making if required.

Code Requirement	Compliance Indicators
<p>Members of the governing body, paid staff, and volunteers will make known to the governing body any conflict of interest or any affiliation they might have with an actual or potential supplier of goods and services, recipient of grant funds or organisation with competing or conflicting objectives.</p>	<p>The organisation has a clearly articulated process for notification of conflicts of interest by any governing body member, paid staff and volunteers.</p>
<p>T I P S</p>	<p>The conflict of interest process should clearly outline the steps to be followed when a conflict of interest is identified.</p>
<p>Members of the governing body and paid staff will absent themselves from discussion and abstain from voting or otherwise participating in the decision on any issue in which there is a conflict of interest.</p>	<p>Conflict of interest processes ensure that:</p> <ul style="list-style-type: none"> • real or perceived conflicts of interest are clearly recorded • the capacity to influence a decision in which there is a conflict of interest is eliminated.
<p>Large or otherwise inappropriate gifts to members of the governing body or staff for personal use shall be forbidden.</p>	<p>Conflict of interest processes ensure that assessment of gifts and favours is undertaken to distinguish those that represent goodwill and friendship from those, which are designed to create indebtedness.</p>

Code of Conduct Clause 3.5

The governing body will commit the organisation to open and accurate disclosure of information concerning its goals, programs, finances and governance. Due regard will be given to the human rights and personal safety of staff, partners and aid recipients, legal requirements regarding privacy and confidentiality, proprietary information and personnel matters.

The provision of open and accurate information concerning an organisation's activities is key to public accountability.

Code Requirement	Compliance Indicators
<p>The governing body will commit the organisation to open and accurate disclosure of information concerning its goals, programs, finances and governance.</p>	<p>A minimum requirement for open and accurate disclosure is demonstrated through the production and distribution of an annual report (as defined in the ACFID Code of Conduct clause 4.1), newsletters and websites.</p>
<p>Due regard will be given to the human rights and personal safety of staff, partners and aid recipients, legal requirements regarding privacy and confidentiality, proprietary information and personnel matters.</p>	<p>Policies, procedures and processes relating to staff, partners and aid recipients that should (where relevant) be informed by:</p> <ul style="list-style-type: none"> • rights and obligations as outlined in the Universal Declaration of Human Rights and expressed in relevant employment legislation, • personal safety issues, • privacy legislation and any other confidentiality issues, • proprietary information - commercial information (apart from annual financial statements) about the internal operations of the organisation should be protected and confidentiality respected, • personnel matters - section 6 of this Guidance Document for further information on personnel matters.

TIPS

See section 6 of this Guidance Document for further information on personnel and management

Code of Conduct clause 3.6

The organisation will hold an annual general meeting of its members as defined in its governing instrument and which meets the requirements of the legislation under which the organisation is incorporated. The AGM will receive the annual audited financial statements and appoint an independent auditor for the subsequent year/s.

All incorporated organisations are required (as defined by the legislation under which they have incorporated) to convene an annual general meeting.

The annual general meeting is a key means of maintaining the accountability of the organisation. All members must be invited to attend and participate.

Code Requirement	Compliance Indicators
<p>The organisation will hold an annual general meeting of its members as defined in its governing instrument and which meets the requirements of the legislation under which the organisation is incorporated</p>	<p>Annual general meetings are convened as defined in the signatory's governing instrument.</p>
<p>The AGM will receive the annual audited financial statements and appoint an independent auditor for the subsequent year/s.</p>	<p>The annual general meeting meets the requirements set out in the signatory agency's governing instrument and at a minimum:</p> <ul style="list-style-type: none"> • receive the audited annual financial statements; and • appoint an independent auditor for the following year/s.

