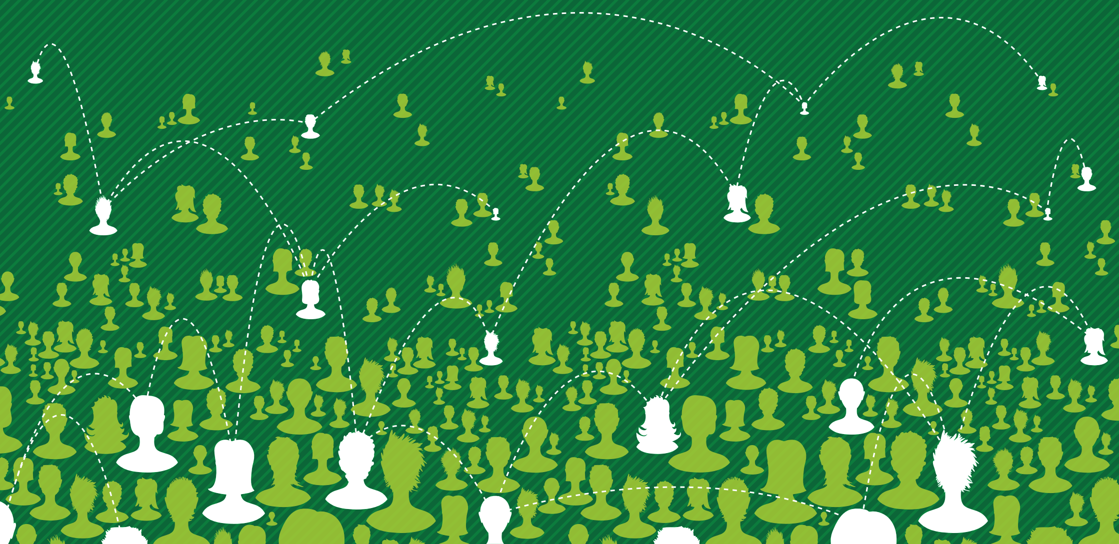
# GOVERNANCE INSIGHTS

*reflections & commentary on corporate governance in Australia in 2015*

***volume 3***

Mark C Schultz
and Stephen Lake



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# INTRODUCTION

This ebook has been published from the weekly blogs written by authors Mark C Schultz and Stephen Lake, during 2015. Each article has corporate governance as its central theme and in many cases, related to a governance issue that has received attention in the community and media.

Mark C Schultz & Stephen Lake
December 2015

2015 presented non-profit organisations with “more of the same” but in larger dimensions – an ever increasing demand for more services , continuous pressure on revenues and operating budgets with the added quandary of attracting and retaining the right staff.

It is in this environment that good governance must provide leadership, accountability and performance if organisations are to not just survive, but grow and develop into sustainable business models.

However, again in 2015, we had examples of poor governance played out in the public arena – large and small, public and private, for profit and non-profit organisations all rated a mention in the catalogue of bad behaviour. Whilst this must always be highlighted, we should never over look or fail to acknowledge the great work that is generally undertaken by boards of non-profit organisations.

This e book provides reflections on corporate governance throughout 2015 and will hopefully contribute in some small way to the development of this most important aspect of organisational leadership.

To further assist in this endeavour, we invite all those with an interest in governance to join our new Virtual Network at **www.governancetoday.com** and join us in the pursuit of governance excellence.



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# 2015 – A TIME TO FOCUS ON THE MATTERS OF MOST IMPORTANCE

Some learned person once wrote that "I don't have time to write you a short letter, so I will write you a long one instead!" A boards strategic plan should never suffer from this disorder and a new year's resolution should be to identify and act of those matters that will impact most directly on the viability and sustainability of your organisation.

When the board and management team sit down to discuss and agree on priorities for the next 12 – 18 months, it should give itself the challenge of identifying those issues that are most critical to the success of the business. That is, if the issue is not resolved, then the business will be under real threat in terms of its sustainability. (I would think that most organisations in the non-profit sector will be having this conversation sometime during 2015).

Also ask yourself this question – if our organisation did not provide its services for the next 6 months, would this have an adverse effect of the sector or would your clients simply find another provider to meet their needs?

The role of the board is to focus on direction and strategy, through leadership and the application of good governance principles. The 2 issues of sustainability and relevance are important aspects of good governance and a critical analysis of the business in relation to these matters is a board responsibility and one that should not be shirked from, especially in these times of uncertain and shrinking revenue bases.

Take time to do the analysis, gather the evidence and then make the decisions that are best for the business – these may not always be what you want to do, but the consideration from a governance perspective is always "what is in the best interests of the organisation?"  and document this in a short "letter" that is clear, definitive and right for its time.



# ETHICS AND BUSINESS SUCCESS – CAN THEY CO-EXIST?

The movies Wall Street and more recently The Wolf of Wall Street espoused the principle that the only definition of success was profit and that all means to achieve such an outcome were entirely acceptable. The concept that business ethics should play a role in the leadership of an organisation was treated with disdain – a fiction film with actors maybe, but perhaps not so far from reality!

If we need evidence that business in 21st century still struggles with ethics and that the behaviour mirrors Hollywood films, think about the Commonwealth bank's financial advisers or simply read mainstream media to be regularly updated on corporate fraud and bad behaviour.  So what role does a Board and good governance play in creating an ethically based organisation?

Ultimately good corporate governance is about personal and organisational integrity. Whilst having a code of ethics does not guarantee the right sort of behaviour, it is a means to provide a decision-making framework by establishing the principles and values that guide actions and decisions. A code of ethics defines a standard of professional conduct for all staff in the business and there is no " opt in/opt out option" available, depending on individual roles in the organisation.  The Code is based on the principle that all members of an organisation are collectively and individually responsible for creating an environment of ethical behaviour, integrity and accountability.

Consequently, it is the responsibility of the Board to provide leadership and establish expectations in all matters of ethics and organisational behaviour. Without such governance, organisations can become rudderless and stakeholder confidence can be easily eroded and destroyed. We must believe that ethics and business success are not mutually exclusive and lead and manage our organisations accordingly –it is the right thing to do!

# THE DIRECTORS TOOLKIT - WHAT ARE THE ESSENTIAL COMPONENTS?

Directors have a set of core responsibilities that can be addressed through the application of best practice processes and frameworks. The competitive advantage is not gained by the process or framework itself, rather it is the research, content and culture that provide the true unique characteristics that enable an organisation to be sustainable and successful in the long term.

We believe there are 3 key components of the director's toolkit, namely:

The strategic plan: where are we going, how we will get there and how will we know if we are on track to achieving our goals. Furthermore and most importantly, what are the values and principles that will underpin the way we do business? The establishment of these expectations is critical to the successful leadership and management of all organisations and the board must play a role in this process.

The risk management plan: what is our appetite for risk, what is the likelihood of adverse events occurring and what is the likely impact on the business should any of these events occur? The risk management plan is the outcome of process that a cross section of the organisation participates in thereby ensuring the best result possible is achieved - the challenge is to develop strategies to mitigate and manage these risks.

Performance management - how Is the organisation, the CEO and the board itself tracking against the expectations agreed on at the start of the year. How does the scorecard look against the performance benchmarks set and then how can we improve performance from what we have learnt during the review period.

In summary, a board and the organisation should use established and proven tools to assist it develop its plans and business model. The framework does not make a business unique; it's the people and the culture that drives performance and achieves results.



# THE NON-PROFIT SECTOR – UNDER THREAT FROM 2 DIRECTIONS

The NFP sector is a major player in our economy, operating on slim budgets, dealing with the toughest issues and supported by an army of volunteers. However, this segment is currently besieged by 2 major foes and these circumstances could impact on the sustainability of the sector and thereby the very nature of our society.

The 2 "elephants in the room" (and generally one is sufficient to cause some angst amongst stakeholders!) are the ever increasing regulatory and compliance demands, along with the increasing trend to resort to litigation and the ongoing viability of NFPs i.e. ever increasing costs and diminishing revenues.

Bad behaviour (e.g.  watch the Greyhound Industry after this week) has forced governments to impose regulations to improve performance , however the regulators are generally unable to differentiate between size and risk. This means that the regulations apply to all organisations irrespective of their revenue base, asset base etc., thereby imposing debilitating compliance requirements on everyone- some can cope, others struggle to deliver expectations. Furthermore, we are becoming a more litigious society, increasingly looking to make someone "pay" and NFPs have not escaped this trend.

In terms of viability, shrinking government and society budgets have flowed through to the NFP sector thereby causing adverse effects on viability and service delivery. More has to be done with less and if this continues, the impact will be severe for those most in need. Whilst volunteers fill the gaps, if there is no structure to manage this resource, then the end result is self-evident. Furthermore, the threat of litigation is one sure way of reducing volunteer take-up.

As a nation we cannot afford to lose our volunteer base. It is up the leadership of NFPs through the Board of Directors to work towards taming and then removing these elephants – they will not leave by themselves!

# THE BOARD AND DUTY OF CARE – WHAT IS THE RELATIONSHIP?

The "duty of care" responsibility has risen to great heights in recent years and it is now commonly accepted that both organisations and individuals have to meet this standard in their every day activities. It is a lawful obligation and not one that can be "opt out of" under any circumstances.

The board of directors of a non-profit entity play a very important role in this aspect of business management. All organisations have a responsibility and legal obligation to ensure that its activities adhere to a standard that is reasonable within its context. Whether it is the products that it produces for sale (eg Pattie's Foods), the use of drugs in sport (the Essendon Football Club) or ensuring the safety of those who were are responsible for (Supported Accommodation Services), there is an expectation that organisations will deliver its products/services that will do no harm and to a standard that is acceptable to the "ordinary man."

The board of directors have ultimate responsibility for ensuring  that the standard is firstly established ( what is the benchmark that must be met ? ) , that the all stakeholders clearly understand and commit to the standard and then have in place a system to monitor, report and improve performance.

The focus should be "because it is the right thing to do, not that we have to do it! " The board provides a leadership role in setting the right culture and thereby protecting the organisation against the consequences of failure to meet this standard of behaviour. A positive approach will enhance stakeholder perception and flow through to improved and sustained performance.



# SUCCESSION – HOW LONG IS LONG ENOUGH?

The following comments are made on the basis that the supply and demand curves are not way out of sync, that is there are enough suitably qualified and motivated people around to have an actual succession plan in place. In rural areas this is not always the case, so common sense should prevail and organisations may just have to work with what and who is at hand.

In an ideal world, a Board operates under the same principles as the organisation in that it tries to have the right people in the right job at that right time. Determining an appropriate tenure for board members is subject to many variables and considerations, however here are a few matters that should be thought about in developing the succession plan for your board (and Chairman):

- Actually develop a policy around board tenure and review and discuss this on an annual basis (ie a specific agenda for a board meeting); understand individual personal commitments for the next 5 years;
- Discuss the preferred make-up of the board ie skill set, gender balance, demographics and undertake a gap analysis between what you have and what you would like to have;
- Agree on a total term period – eg 10 -12 years) be prepared to be flexible due to changing circumstances) and develop your plan around this time line; and
- Try to find the balance between retaining corporate history and knowledge and board renewal. There is a "sweet spot", it just has to be looked for.

If it is within your board culture to discuss succession and all board members recognise that their "use by date" will arrive, then the organisation will benefit from a positive approach to this leadership transition challenge. A positive approach to succession is fundamental to good governance and business sustainability and one that the board must always have as part of its annual review process.

# GOOD GOVERNANCE – IT IS AS MUCH CULTURE AS SYSTEMS AND STRUCTURES

Way back in 2003, the report from the Royal Commission into the HIH Insurance disaster included the following observation "systems and structures can provide an environment conducive to good governance, however at the end of the day, it is the acts or omissions of people charged with relevant responsibilities that will determine whether governance objectives are actually met"

It would seem not much has changed since that insightful observation some 12 years ago – think of the Commonwealth Bank, the National Bank, the Essendon Football Club and the Greyhound Racing Association, (to name just a few of the more high profile cases) – each could claim to have systems and structures in place, articulated through highly visible Vision, Mission and Values and Principles Statements. Yet each have suffered from events that have caused great harm to many stakeholders , both directly and indirectly, despite their claims to having good governance practices in place.

So what went wrong? The following observations can be made in response to this question:

What type of culture is/was in place that enabled such events to occur without someone in the organisation saying "this is not right, it is against what we stand for! "

What checks and balances did the Board of Directors have in place to test the veracity of their systems and structures? Did the Board simply accept that what the organisation articulated was actually being followed through with or did it try to satisfy itself that the organisation's culture delivered its intentions and expectations?

It would appear that the culture of the above organisations have failed to do "the right thing" and at face value, the Boards also failed to fulfil their duty and responsibilities in relation to satisfying themselves that the right systems and structures were in place. Good governance requires such leadership from the Board and senior management.



# NOMINATION COMMITTEES – GOOD GOVERNANCE OR A PROBLEM IN THE MAKING?

The establishment of Nomination Committees is becoming a more widespread approach to the recruitment and selection of board members across both the for profit and non profit sectors. In fact, if organisations receive government funds, this is becoming a mandatory requirement to secure continuity of financial support. So what are the "fors" and "against" of such a policy?

**The Positives**

Such an approach derives many benefits for an organisation, including:

- Creating an environment whereby the board determines the required skill set those prospective new members should bring to the organisation;
- Implementing a recruitment and selection process that works towards making the preferred appointment;
- Incorporating an approach that reduces the opportunity of a recalcitrant being appointed to the board through an ad hoc process; and
- Providing a means to ensure the independence of candidates through the selection process.

**The Negatives**

The downside of such an approach includes:

- The board can become like a "Club" i.e. only certain type of people, may join thereby reducing the effectiveness of the board;
- Subsequently, "group think" may emerge if there is not sufficient diversity in the representative body;
- For a member based organisation, it presumes the selection committee "knows best "and therefore may or may not truly represent all members;
- Can be a process to exclude certain individuals/ representatives, which again may or may not be a good thing;
- May be unconstitutional; and
- May be perceived as a process for a certain group to control the organisation by excluding persons through a process which can be justified as "good governance".

In summary, in principle, the adoption of a nominations committee approach to board member selection can derive many benefits for the governance of an organisation. However, the downsides are sufficiently tangible for care to be taken in the establishment and implementation of such a policy. In other words, "be careful what you wish for!"

# NUMBER OF BOARD MEMBERS – WHAT IS THE RIGHT NUMBER?

This discussion is always prefaced with the understanding that an organisation has access to a pool of suitably skilled and capable candidates who are ready, willing and able to commit to the role of a director of either or non-profit or for profit organisation. Unfortunately, the further an organisation is from a capital or large regional city, the greater the challenge in securing candidates of such attributes to take on such a role.

For the purpose of this debate, we will segregate the sides into two, those with board members > 10 and those with numbers < 10.

A summary of the benefits and shortcomings of each is as follows:

**>10**
**The benefits:**

- An opportunity to have access to a diverse range of people to contribute at the governance level;
- Burn out is not likely as the work load can be spread amongst more board members;
- Succession planning becomes easier with greater numbers; and
- Even with apologies, it is unlikely that quorums will not be achieved.

**The shortcomings:**

- The decision-making process is more difficult to manage and more prolonged with greater numbers;
- Attendance complacency can set in more easily;
- Sub groups can form, less cohesive, factions can arise; and
- Member engagement is a greater challenge with larger numbers.

**< 10**
**The benefits:**

- Generally, a more engaged board, members participate more actively in the governance process;
- “Nowhere to hide” with lesser numbers;
- Greater commitment to attendance and participation, greater sense of obligation to fellow board members and the organisation; and
- Decision making processes are much more effective and inclusive.

**The shortcomings:**

- If poor attendance occurs, good governance can become compromised;
- Too much may be left to too few, therefore negatively impacting on both attraction and retention rates;
- Skill base and diversity may be compromised; and
- The leadership pool may not be as broad as a larger board with subsequent implications for the organisation.

In summary, as usual, there is no “one size fits all” Best practise depends on many variables when it comes to the “right” numbers, however if an organisation and the board starts with the right attitude and culture, then the numbers become less relevant than the people themselves.

# WHISTLE-BLOWER POLICY – DOES YOUR ORGANISATION HAVE ONE IN PLACE?

The term "whistle-blower" seems to have been used so much more in the past few years, as individuals become frustrated with the lack of response to formal and informal complaints by organisations and have therefore gone public in their last ditch attempts to resolve what they perceive as inappropriate behaviour.

What can a Board do to ensure that if a compliant is made about inappropriate behaviour, then action is taken to both address the issue and protect the person who identified the problem? Here are a few things Boards can do in this important aspect of corporate governance:

- Develop, implement and communicate a whistle-blower/complaints policy that is clearly understood by all who work in the business;
- Encapsulate that policy in the values and principles of the organisation and strive to have this imbedded into the organisation's culture;
- Request all complaints are documented in a Complaints Register and that the register is tabled at regular intervals at board meetings. Also request that the Chief Executive be required to report to each Board meeting any incident that may be classified as important for the board to know about and understand. The definition of important is generally subjective, however if the right culture is in place, this should not be difficult to manage – no surprises is a good place to start!
- Do not shoot the messenger. This is a short term solution only and will generally come back to haunt individuals and the organisation.

A "mea culpa" has a surprising way of diffusing rather than in sighting issues. Forgiveness is granted more easily to one that admits to a mistake rather than try to hide it under some false pretext.

Organisations and individuals make mistakes – the challenge is how the fallout from the mistake is managed. Refusing to respond to a genuine whistle-blower generally creates greater reputational damage with larger financial implications than acknowledging the problem and attempting to deal openly and honestly with the matter at hand. The Board is responsible for taking a leadership role in this aspect of corporate governance.



# CHARACTERISTICS OF A GOOD BOARD MEMBER – WHAT IS REQUIRED!

Individuals join a board for a variety of personal reasons, however, once the appointment to the board is made, the focus should then move from the individual to the organisation. Each board member should make a personal and collective contribution to the wellbeing of the organisation and ensure the sustainability of the business over the long term.

Exemplary characteristics of a board member include:

**Always act:**

- To optimise and sustain the organisation according to a well-informed conscience;
- With astute commercial judgement and a sound understanding of the organisation's business; and
- Solely for a proper person.

**The organisation should:**

- Comprise members with the independence of mind and strength of character required to play a contributory role in the deliberation of the board;
- Define, promote, exemplify and apply the ethical values and principles of the organisation; and
- Accept ultimate responsibilities for the actions of the organisation in its dealings with its stakeholders.

**These characteristics can be summarised as:**

- Technical competency – what skills, capacity and capability do you bring to the organisation?
- Behavioural competency – how do you behave during the exercise of your duties and responsibilities? and
- Self-awareness – is this part of your make-up?

Being a board follower of either a non-profit or for-profit organisation is no place for the faint hearted, the fence –sitter or the non-contributor. There is only room at the table for those who meet the above criteria.

# BOARD INDUCTION – THE MORE TIME YOU PUT IN, THE BETTER THE RESULT

Induction of board members is no different to the induction of employees. Just as it is poor management to expect a staff member to appropriately perform without a genuine induction program, so it is poor leadership to fail to provide a new board member with an in depth introduction to the organisation , the board and senior management – the benefits will far outweigh the cost of such a process.

Consider the situation of a non-executive board member joining a new organisation (and in this case, a non-profit organisation). Whilst this person may bring a wealth of capability, skill and even governance experience to the board, there is still the matter of understanding the direction, culture and nuances of the new organisation. Until the new board member is able to connect at this level, the contribution that can be made by the individual will be limited. Here are a few ways to address this issue and reduce the time it takes for a new board member to start making a real contribution to the organisation:

- Allocate time for the Chairman to spend time with the new board member to provide a detailed summary of the strategic plan, performance management and risk management systems and annual board agenda;
- Arrange a detailed briefing by the CEO, incorporating a site/s visit, meeting with the management team and details of the annual business plan;
- Provide copies of the past 12 months Board meeting minutes, any special reports, industry reports and stakeholder engagement plans;
- Arrange an informal meeting with all board members to provide an opportunity for all to interact, get to know each other and for the new person to better understand the culture of the board.

In summary, the introduction of a new board member is a great opportunity for board renewal, re invigoration and access to fresh thinking and contribution. The sooner a board can get to a position where such benefits are realised , the better for all stakeholders concerned - good governance demands that a real induction plan be put in place for all new board members to achieve these outcomes.



# KNOWLEDGE MANAGEMENT – IF WE ONLY KNEW WHAT WE KNOW!

Organisations and individuals are in a continuous state of learning, both directly and indirectly, throughout their whole life and boards of directors/management are no exception to this rule. The challenge then is how do we retain and share the individual learning that we all experience on a daily basis? If we only know what we know, our organisations would be so much more effective and profitable.

Firstly, what is knowledge management? – it is the process of capturing, developing, sharing, and effectively using organisational knowledge. It refers to a multi-disciplined approach to achieving organisational objectives by making the best use of knowledge.

From a governance perspective, where the board is comprised of non-executive part time directors who come from ( or at least should come from) a diverse range of backgrounds, skills , cultures and life experiences, the benefits of having a system that can retain and share knowledge is fundamental to good governance.

Here are a few ways Boards can approach a knowledge management system:

- Create a Board member only section within the organisation's web site/ intranet;
- Develop a document management system that collates and stores information/reports/data that is easily accessed and navigated;
- Establish a FAQ section that provides background information, history of the organisation, notes on key events/activities/learnings that may be useful in the future;
- Retain past strategic ,business and risk management plans and year end results that may be referenced as research/support data for future plans and induction of new board members; and
- Undertake a skills audit of board members and senior management to create a snap shot of the broader capability of such person within your organisation – from past experience, you will be pleasantly surprised with the results of such an activity.

In summary, organisation usually spend a lot of time "re-inventing the wheel" as the establishment is not able to retain, collate and then re-connect with learnings from the past. Whilst it may appear appealing to focus on "we don't know what we don't know", it should be much more effective and immediately beneficial to create a system to address "if we only knew what we know."

# PERFORMANCE MANAGEMENT – AN ONGOING QUEST TO GET IT RIGHT

**A key responsibility of the board in its endeavours to achieve good governance is managing performance; that is performance of the organisation, the CEO and the board itself. If the board can maximise the alignment of these three, then great steps will have been taken to secure the sustainability and viability of the organisation.**

Effective performance management has the following key elements:

- Clearly articulating expectations so there is no misunderstanding about outcomes to be achieved by members of the board the CEO and the management and staff;
- Aligning those expectations with the criteria by which the CEO is appraised and reviewed;
- Utilising measures that focus on more than the financials , that is, those that relate to value and represent a balanced review of the organisation's performance;
- Adopt the SMART principle - Specific, Measurable, Achievable, Realistic and Time abound - ensure no ambiguity nor opportunity for interpretation; and
- The board should also review its own performance to assess its contribution to the organisation and business in relation to its primary duties and responsibilities.

Performance measurement should be about reviewing how the organisation is going in terms of its strategy and business plan. It is not the time to manage recalcitrant behaviour, there are other times and processes to do this. It is about reviewing, assessing and redesigning if necessary the outcomes from the strategies that the board has developed and endorsed and management implemented and it is about a system of ongoing improvement.

And finally, it is generally a process that has to be worked on to get it right (if there is ever such a state in our ever changing world!)….good luck.



# INNOVATION – WHAT ROLE CAN THE BOARD PLAY?

**Innovation is another one of those words that our politicians have got hold of, however we must not let this deter us from creating a culture and framework that encourages, supports and resource true innovation within our organisations, irrespective of size or sector – and the board has a role to play in this most important component of business sustainability.**

Generally and simplistically, innovation commonly refers to changing or creating more effective processes, products and ideas that can contribute to the likelihood of a business succeeding. Businesses that have a culture that supports innovation generally create more efficient work processes and have better productivity and performance.

Innovation also generally carries an element of risk and potential failure, as it is about creating something new; therefore the leadership of the organization and in particular the board, has an important part to play in establishing innovation as key component of its business strategy. The board's role in achieving this outcome includes:

- Include innovation in its strategic planning process;
- Create an appropriate structure to drive the innovation strategy, for example a board sub-committee;
- Include 1 -2 board members on this subcommittee;
- Provide resources outside the annual operating budget to separately fund innovative activities;
- Establish terms of reference on how innovation will be adopted and the subcommittee will operate; Be prepared for failure - true innovation requires a higher degree of risk taking, and the possibility of failure is therefore considerably enhanced, however this subcommittee is permitted to fail within its terms of reference;
- Actively communicate and encourage innovation within the organization, led by example, look for opportunities within organisational governance and leadership to demonstrate your commitment to the process.

In summary, we cannot expect that the strategies of yesterday will continue to deliver success in the future. Organisations must adapt to an ever changing environment and the implementation of an appropriately resourced innovation strategy, led by the board of directors/management will make a major contribution to the ongoing sustainability of your business.

# EFFECTIVE CHANGE – WHAT ROLE DOES THE BOARD PLAY?

Change management is a key component of organisational governance and board leadership. As the group ultimately responsible for the sustainability and viability of the organisation, the board should have a deep understanding of change management and the role it should play in this important part of strategic management.

There are many theories of change and non-profits are generally in the business of effecting change for the better of society. To create effective change, we would like to offer a model based on our experience in the sector and good governance. The steps to achieving a good outcome in this process include:

- A clear vision: without this being understood, confusion may reign in the organisation;
- Sound values: weak values can lead to corruption;
- Robust strategy: a poor strategy leads to a lack of focus;
- Adequate resources: not enough resources can lead to frustration;
- Proven capability: insufficient capability can create burnout;
- Strong motivation: lack of motivation can produce speed humps; and
- Two-way feedback: no feedback produces lingering doubts.

**= effective change**

Whilst it is not the role of the board to become involved in day to day management and strategy implementation, it does play a role in strategy development and performance management, both of which combine to address the above steps to effective change. In a world where constant change in the external environment is now a part of everyday business life, having an effective change management strategy in place is key to long term success.



# GOVERNANCE POLICIES – FUNDAMENTAL REQUIREMENT FOR GOOD GOVERNANCE

When thinking about policies in general, a board should also consider developing and implementing governance policies as a means to define and manage expectations at the highest level of the organisation. This represents best practise in governance and provides leadership and direction, key functions of all board members.

The role of the board is to represent all stakeholders in determining and setting expectations for organisational performance. One strategy that contributes to the achievement of this outcome is for the board to develop and monitor board-level which provide direction and boundaries for both its own and the CEO's functions. The key areas that these policies should address include:

Strategic ends policies: defining the outcomes the board want to be achieved. Such policies set the direction of the business and clearly articulate "what business we are in"

Governance process policies: describes the way the board carries out its governing role, including the Values statement and Code of Conduct;

Board/CEO relationship policies: defining the nature of the interrelationship between the board and the CEO, including the performance management system and reporting requirements;

CEO delegation policies: clearly articulating the CEO's line of authority, delegations and accountability framework, thereby ensuring clarity of roles for both parties.

Policies, so long as followed, provide transparency, direction and expectations, all of which are fundamental to both good governance and high performance. Whilst the development is obviously important, the subsequent process of both ensuring the policies are being followed and then reviewing/updating on an annual basis to maintain currency is just as important. It's up to the board to make all this happen and then monitor as part of its overall governance responsibilities.

# LESSONS FROM THE PAST – SOME TIPS ON POLICY, PROCESS AND GOOD GOVERNANCE

From the National Safety Council in 1991, to the Centro case in 2011 and Banksia in 2014 (or thereabouts), corporate failure due to poor governance (amongst other inappropriate behaviour) has contributed to considerable losses at the financial, social and personal levels. History provides us with an opportunity to learn from the past and as the fundamentals of good governance does not really change over time; we can identify some common themes and lessons from these most unfortunate events.

**Board composition:** diversity of skills, capabilities, people and understanding of the role, combined with the courage of conviction and enquiring minds will provide a good foundation for good governance;

**Selecting advisers:** have in place a real system to select advisers, ensure capacity and capability to do the job (demand evidence of this), clearly articulate the terms of reference and always question the adviser until you are satisfied that you and the board understand what is going on and their specific advice;

**Internal processes:** ensure the organisation has the internal capacity and capability to implement the strategies signed off by the board and then provide the appropriate reporting to enable the board to clearly understand how the organisation is tracking against its expectations. Whilst the CEO is responsible for day-to-day management, the board must be comfortable with the quality of the information it is being provided with to fulfil its accountability responsibilities. Having other senior executives/management present to the board on a regular basis is one way to better understand this issue and also provides an opportunity for the board to re-iterate its expectations direct with the people who are responsible for doing the work.

Over the next few weeks we will continue this theme of "lessons learnt from the past", for some learned person from the past once said that "the definition of stupidity is doing the same thing over and over again and expecting to get a different result!" The cost of these failures has been too high for us to ignore in our quest for good governance.



# BEHAVIOURS THAT DEMONSTRATE HIGH PERFORMING BOARD MEMBERS – WHAT ARE THEY?

Profiling and personality assessments are popular tools used to establish benchmarks or indicators in the recruitment and selection of key staff and business leaders. So what type of behaviour is expected from board members when undertaking their individual and collective roles of organisational governance and leadership?

This summary is not based on any scientific research or study, rather sentiments gathered from many years of experience working in and on the discipline of good governance:

- An enquiring mind: willing and able to understand the matter at hand and satisfy oneself that the direction the business is taking is in the best interest of the organisation;
- Strength of character: have the personal conviction to do not just what is right but what is most beneficial for the organisation;
- Disagree but not be disagreeable: be prepared to canvas and listen to alternative solutions, contribute to discussion about different perspectives, but then finally agree on the best way forward; and
- Be prepared: spend whatever time is necessary to understand the business in general and specific issues, thereby being able to contribute in a meaningful way to the decision-making process.

Accepting a position as a non-executive board member, of either a non-profit or for profit organisation should not be taken lightly. Once appointed, you are accountable for more than just yourself and you are responsible for the long term viability of the organisation you govern – having the above characteristics will enable you to undertake your role to the best of your ability and s make a major contribution to the good governance of your organisation.

# COMPLIANCE V PERFORMANCE – FINDING THE RIGHT BALANCE

Board members are responsible for both compliance and performance in the governance role of their organisation. Both are important to long term success and Boards must allocate appropriate time to both these responsibilities. How Boars allocate time, resources and resources to each activity is an ongoing challenge for all non-profit organisations.

What then are the key characteristics of Compliance and Performance?

**Compliance:**

- Is past and present orientated?
- Provides accountability by establishing systems to ensure services meet the needs of the community;
- Ensures key management plans are in place, such as risk management & performance management;
- Ensures compliance with all legal, regulatory and statutory requirements; and
- Monitors and supervises the overall management of the organisation.

Compliance relates to what has happened and is more about management of the business – a pre requisite of any operation but should not become the sole focus of the organisation.

**Performance:**

- Is future orientated;
- Includes understanding the external environment, identifying trends and changes and setting a clear direction for the business, through the development and implementation of the strategic plan;
- Engages with stakeholders, communicates with the broader community;
- Develops policies and establishes means to ensure “what is being done is in line with the board’s expectations”; and
- Contributes leads and supports the unique organisational culture that establishes the business as something truly unique.

Performance is about working towards creating a preferred future, understating the world in which you operate and positioning the business for success and sustainability.

To maximise opportunities and achieve long term goals, boards must give due attention to these primary functions of good governance - it’s not one or the other, nor is one more important than the other, and requires leadership and determination to achieve the right balance.

# STRESS TEST YOUR ORGANISATION – FROM TOP TO BOTTOM AND INSIDE OUT

A fundamental condition for a board of directors to practice good governance is to undertake an organisational "stress test" on an annual basis. This can be conducted as either part of the risk management process or as an individual activity to ensure the business understands the potential stresses that could arise in an ever changing and increasingly risker external operating environment.

What then are some of the key areas that the board should look at during this "stress test" activity?

**The internal environment:**

- **Cash flow:** how long could the business continue to trade if trading losses were incurred; what does the board consider to be an appropriate "cash buffer" and is this benchmark reported on at each board/finance meeting?
- **People:** what happens to the business if the CEO, CFO or other key management staff are, for some reason or another, unable to undertake their duties for say a period greater than 2 months? Is there a succession plan in place, is the organisation bigger enough to have a succession plan and if not, does this raise another issue altogether about the sustainability of the business model?
- **Infrastructure:** Does the current infrastructure meet the organisation's needs, would a "break down" of any sort impact on the business activities, is there a contingency plan in place and again, is the organisation big enough to have a contingency plan?
- **Customers:** Does your business fall into the "80/20" category, what would happen if you lost your biggest customer, what would happen if your largest debtor did not pay?

**The external environment:**

- **Demographics:** will the current and emerging demographic profile of your community / customer base be sufficient to drive revenue for your business model?
- **Government policy:** is it relevant to your business and what happens if there is dramatic change in this area – very likely in this new era of one term governments?
- **The environment:** does it play a role in your business now or could it in the future? Are you equipped to deal with the potential impact of the environment on your business?

The list could go on but suffice to say that 'stress testing" or "scenario planning" is a prerequisite of good governance. Thinking about the future, the environment the business operates in and the key drivers of the organisation's sustainability and long term success is core to the requirement to always "act in the best interests of the organisation" and ensure that when your tenure as a board member is complete, the organisation is in much better place than when you first started in your role- commence this process by scheduling this activity into your annual agenda at your next board meeting.



# THE 7 PILLARS OF GOOD GOVERNANCE – THE FOUNDATIONS OF ORGANISATIONAL SUCCESS

Articulating what good governance actually is and how a board goes about putting into practising the principles of good governance is an ongoing challenge for all boards, however achieving this outcome will deliver significant and sustainable results for your organisation.

At Governance Today, we have developed a governance model that comprises 7 key pillars. We also believe that good governance is a matter of depth not breadth; therefore all organisations should be both thinking about and actioning the following strategic matters:

**Direction:** what business are we in, what makes our products/services unique, why would people do business with us? Articulating a clear direction and vision is a fundamental and primary role of the board;

**Viability & sustainability:** is our business still relevant in today's market, is our business model constructed to generate sustainable profits and survive short/medium term downturn in the market; does it pass "stress tests"?

**Stakeholder engagement:** do we know who are key stakeholders are and do we have a plan to engage with them at an appropriate level during the year?

**Risk management:** what role does this play in the strategic management of your business; is the attitude to risk one of compliance or culture?

**Performance management:** of the organisation, the CEO and the board itself – what do you have in place to drive on going improvement across all levels of the business?

**Compliance:** what is your organisations attitude to compliance, how do you manage compliance, how do you determine if you are meeting all your compliance obligations; and

**Professional development & succession:** how do you manage this; is it on the annual agenda and are resources allocated in the budget for the board to undertake appropriate PD? Who is thinking about board succession?

In summary, these matters are relevant to all organisations, the only differentiator is the depth of the application. Boards are required to apply themselves relative to the size, risk and structure of the business and the above pillars provide a framework to practice good governance in your organisation.

# KNOWLEDGE MANAGEMENT – IF WE ONLY KNEW WHAT WE KNOW! (PART 2)

Organisations in general spend considerable resources in both internal and external training and professional development as well as the "learn as you go and do" process. Much of this learning is lost through staff turnover, a lack of sharing and most importantly, the absence of any specific system to store, transfer and access the knowledge that is accrued both directly and indirectly during the life of an organisation. What role then does governance and Boards play in this area of knowledge management and is it worth pursuing?

There is a statement amongst board members that says" if we don't know what we don't know", then how can we discuss the issues that fall into this category? Whilst this will always be a challenge, especially for non executive, part time volunteer board members in the non profit sector, we suggest that boards firstly look at how they can harness, retain and share " what they do know" in the first instance.

Here are a few ways that boards can contribute to knowledge management in their organisations:

**Create a repository for the collection, retention and access of key strategic documents:** for example, the strategic plan, risk management plan, performance management (the organisation, the CEO and the board itself) and the stakeholder engagement plan. The resources that generally go into creating these documents are significant and if the organisation can leverage off that learning , then costs will be reduced and lessons learnt either enhanced or avoided in the future; and

**Create a framework and system to document, store and retrieve internal and external market/ business intelligence.** Lessons learnt by an individual and /or group should be shared to achieve the multiplier effect of that learning; one learning outcome is generally considered to be a good result, however if many learning outcomes are achieved rather than just one, then the organisation will achieve a far greater return on the original investment. As an example, if a board member attends a PD session, then the learnings should not only be shared in a verbal manner, but also be recorded /stored in a manner that may be both shared and accessed in the future.

Knowledge management requires both a physical and emotional investment; however the potential returns are real and tangible. We talk about "not reinventing the wheel" but often don't know how to do this - a knowledge management system, in a basic format will assist in not only eliminating the duplication of the investment in learning but also contribute to establishing a unique learning and sharing culture within your organisation – and that has to be good for everyone.



# WORK PLACE HEALTH & SAFETY – IT'S EVERYONE'S RESPONSIBILITY, INCLUDING THE BOARD

In recent years, due to the failure of (some) organisations to self-regulate in the area of work place health and safety, governments across Australia have adopted legislation and regulations that require employers, as far as reasonably practicable, not to expose their employees ( including contractors, volunteers etc) to risks to their safety during their employment/engagement with the organisation. Given the board also has a role to play in this obligation, what can it do to meet its duty of care requirements and keep all of its stakeholder's safe during their time in the business?

The board of a non profit organisation must take a leadership role in establishing health and safety (WHS) as a cornerstone of its culture and it can do this by:

- Including WHS in its strategic and business plans and actively communicating this both internally and externally to all stakeholders;
- Incorporating WHS in each Board meeting agenda and requiring management report on the KPIs that reflect performance in this area;
- Adequately provide for WHS expenditure in the annual budget;
- Create a WHS reporting system ( i.e. incident notification);
- Ensure the organisation has the capacity and capability to implement the appropriate safety systems; and
- Undertake an annual risk management process, annual audit and review of safety systems.

The board should satisfy itself that the standards that it has articulated and promulgated in its strategic plans and WHS statements are actually happening in the workplace. Evidence of performance (activities and outcomes) therefore should be included in the board meeting papers to enable all board members to assure themselves that they are meeting their duty of care in this most important area of corporate governance.

And finally, when it's time to act, then the board and management must do so – any attempt to "wave away" inappropriate behaviour or activities will undermine confidence in the system and diminish any strategy to establish WHS as a key component of the organisation's culture and competitive advantage i.e. words must be translated into actions, no exceptions. This is good governance.

# THE 3 MODES OF GOVERNANCE, ALL CREATED EQUAL, BUT ONE MORE EQUAL THAN THE OTHERS

Governance as leadership comprises 3 modes of governance, namely the fiduciary mode, the strategic mode and the generative mode. Each is important and make a real contribution to the sustainability of an organisation, however when all three are practiced at the appropriate time, then a higher level of leadership and governance is achieved.

Firstly, the **fiduciary mode:** a basic and fundamental requirement of good governance. Protect the assets of the business, ensure resources are deployed efficiently and effectively and for everyone, both the board and management, to always act in the best interests if the organisation.

Then the **strategic mode:** the board and management think together to discover strategic priorities and drivers; behaviour mirrors enquiring minds, is open to challenge based on strategic data and the focus is the" ends" rather than the 'means";

And finally, the **generative mode:** where boards provide a less recognised but critical source of leadership for the organisation; the board's core work is creative, challenges the norms, applies a robust deliberative process and plays a key role in the framing of issues and the development of strategic options and plans. That is, in this mode, the board gets involved sooner rather than later and becomes a valuable part of the solution – a very different role to that of the fiduciary and strategic modes.

The suggestion is not that a board has to make a decision in which mode to operate – all 3 are important and contribute to the sustainability of the organisation. However, especially for non-profit organisations, modes 1 and 2 are much more comfortable places to be; mode 3 presents challenges that require different thinking, capacity and capability and this by itself, may be "bridge too far" Good governance however requires us to at least consider the governance as leadership model and how it may be applied to our organisations.



# A CHECKLIST OF BEHAVIOURS OF HIGH PERFORMING BOARDS

Much has been written about the characteristics of high performing individuals and organisations, but what about boards of directors /management? Here we list a few of the behaviours, that if mirrored by directors individually and the board collectively, should create a high performing leadership group.

In no order of importance, high performing boards exhibit the following behaviours:

- Knowledge - able to grasp complex issues; apply well defined and refined generalist skills to technical issues, learnt from both practical experience and continuous formal learning;
- Questions – possess an enquiring mind; ask probing questions based on deep consideration of the issues at hand;
- Non-confrontational - show respect for other members' opinions, disagree but don't be disagreeable;
- Preparation - prepare in earnest before every meeting; if more information is required to enable you to better understand the matter at hand , request such information before you make a decision;
- Focus – apply yourself to the commitment required to be an effective board member; take the initiative to understand the business and the issues at hand, don't wait to simply receive what is being presented to you; and
- Skills – bring something real and tangible to the organisation, commit to ongoing learning and sharing of knowledge.

This list is not meant to be exhaustive, rather a point of reference for boards and individuals to determine their own behaviour expectations and then assess their current performance against their own benchmarks. In essence, a board will be truly effective when the "sum of its parts, is greater than the whole" and good governance will then be a matter of course.

# PERFORMANCE MANAGEMENT – ARE WE MEASURING THE RIGHT THINGS?

Non-profit organisations receive and generate funds from various sources, all with the goal of contributing to the over-riding mission of the business (and hopefully this has been clearly articulated to all stakeholders). A key question for boards to ponder is- are we measuring our performance that will clearly identify if we are achieving our mission?

Outputs, outcomes, change/impact – what is your mission, why does your organisation exist? – and how do you know if your organisation is achieving its mission?

Outputs and outcomes are relatively easy to measure – how many people did we train, how many people accessed our services and what services did we deliver during the period. Nothing difficult here, but also, in terms of identifying if the business effected any change, this type of measurement does not tell us very much at all. If all we measure is outputs and outcomes, we will find it very difficult to determine if we are achieving our mission and if we are investing our resources in activities that will effect change, rather than just deliver a service.

From a governance perspective, boards should clearly articulate their mission and ensure its focus is about creating a "change for good" rather than just deliver a service. Resources are becoming scarcer, competition is increasing for those resources and demand unfortunately for social services is increasing – it's doubtful to think that supply will ever match demand in the areas that non-profits generally operate in throughout the country.

Consequently boards should apply their individual and collective minds to developing performance measures that report on the change that is being effected through their business activities and allocation in resources. This will appeal to not only the provider of funds ( both public and private) but also confirm that the organisation is achieving its mission, which after all, is what good governance is all about.



# DISAGREEMENT AND ROBUST DISCUSSION AT BOARD LEVEL IS NOT A BAD THING

Recently, in the mainstream press, disagreement at board level has been reported in such a way as to suggest that this is not a good thing for governance and leadership of an organisation (.The AFL Commission and its recent deliberations on the Adam Goodes matter is a case in point) On the contrary, disagreement should be encouraged, not thought of in a negative manner.

Why is this preferred component of good governance? Here are a few reasons why we should encourage diversity of opinion in the decision-making process of all types of organisations:

- Diversity implies viewing a situation through a different lens and thereby identifying issues and perspectives that may not have been identified if we are mere "clones" of one another;
- All board members are there to act solely in the best interest of the organisation; therefore they should be prepared to present their case for their individual position on a particular matter and be prepared to listen to and assess opposing positions. Whilst these contributions may be different and be perceived as being in disagreement, it is in fact a healthy position for the board to be in – different perspectives, opposing arguments and the final decision made on consideration of all these matters and what is best for the organisation;
- Board members are expected to bring an enquiring mind to the deliberations of the board and this by definition should mean that at times, members will disagree on certain matters – this does not mean the board is in disarray as implied by the media in the AFL/Goodes case, rather it simply means that the board members are doing what they are supposed to be doing, that is, practising good governance.

There is one proviso – once a decision has been made, then all board members are expected to support the position taken by the board. If there is a public airing of dissent, then stakeholder confidence can be easily undermined and the consequences can be damaging for the organisation – especially if the media is involved and looking for a story. And finally, it is ok to disagree; it is not ok to be disagreeable!

# FEEDBACK RE STAFF PERFORMANCE – WHERE DOES THE BOARD SIT WITH THIS?

It is commonly known and understood that the board employs only one person and that is the CEO. The CEO is thereafter responsible for the recruitment, selection and management of all other staff. Sometimes though, grey areas can emerge whereby the board may get involved in providing feedback on a particular staff member if circumstances justify the involvement.

Generally it is not good governance for any board member to become actively involved in the performance management of any other staff member other than the Chief Executive. However what about the situation when a staff member is a manager of a particular functional area, say the Finance Manager, and the Chief Executive does not have the appropriate skills to assess and manage the finance manager's performance.

This situation becomes even "murkier" if a board member does have those skills and identifies specific areas that need to be addressed. How do the board and Chief Executive manage this without compromising the board/Chief Executive relationship and governance principles? Here are a few guidelines that may help:

- The board should identify this matter in a meeting and have an open and honest discussion with the Chief Executive on the specific issues;
- The matter should be discussed in terms of process and outcomes, not personality;
- Agreement needs to be reached between the board and the Chief Executive that a performance issue does exist, the extent of the issue and whether the matter needs to be resolved; i.e. is the performance having a negative impact on the organisation?
- If the answer is yes and all parties agree, then a management plan can be put in place;
- At all times, the Chief Executive, not the board, needs to be the one who is seen to be driving the process. Failure to do this may undermine the Chief Executive and cause confusion within the organisation structure.

In summary, if a performance issue is identified by a board member because of his/her skills and knowledge, then it is the responsibility of the board member to raise the matter and be a driving force, within the confines of the board room, in resolving the issue to the board's and the Chief Executive's satisfaction. This is good governance and does not erode the key board/Chief Executive relationship and more importantly addresses the matter at hand to the benefit of the organisation.



# CONSENSUS IN THE BOARD ROOM IS THE PREFERRED OUTCOME, BUT SOMETIMES IT IS NOT POSSIBLE!

It is generally accepted that board members should be able to discuss, analyse, review and then agree on any issue that they are debating in the board room. However, there may be circumstances where such an outcome cannot be achieved, so what are the options for dissenting members?

Given that board members are required, at all times, to act in the best interests of the organisation they govern, it is not unrealistic to expect that consensus should be achieved on each matter put forward to the board to resolve. Diversity of opinion is encouraged, for through such diversity more perspectives should be identified and then each alternative viewpoint can be assessed and judged on its individual merits. However, situations may arise whereby an individual board member feels so strongly about a particular issue and the proposed decision that he/she is not able to support the direction the board wishes to take on the matter.

What can the board member do in this case?

- Firstly, the board member should examine his /her conscience and be comfortable that the dissension is based on a genuine belief that the proposed direction the board is about to take is not appropriate , rather than one that is motived by other factors that are not really applicable to the organisation ( for example, political, social or cultural);
- The board member may request that his/her vote against the motion be recorded as such , so that future records may be referred to if necessary;
- If the matter is of such consequence and the board member is not able to reconcile the decision against his/her own perspective on the matter, then the option is to resign from the board as the ultimate demonstration of his/her thoughts on the question at hand; and
- It should be noted however, it is not appropriate for the board member to go public on the process. Public "airing of board room debate" is not conducive for good governance or stakeholder management.

It would be unfortunate if a situation arose that required an individual board member to take such action. Conflict at board level creates an unhealthy environment for both board members and senior management. Effective boards encourage robust discussion, detailed analysis and clear thinking, all of which should enable a group of individuals focused on the same outcome to arrive at a decision that is best for the organisation – this is a key component of good governance.

# THE BOARD – CEO RELATIONSHIP: WHAT UNDERPINS AN EFFECTIVE RELATIONSHIP?

For the governance of an organisation to be truly effective and deliver the best possible results for all stakeholders, it is critical that the Board in general and the Chairman in particular have a relationship with the Chief Executive that is based on the following fundamental components:

**Mutual respect, incorporating an open and honest approach to all matters:** both parties are appointed to work in the best interests of the organisation at all times; it is not a competition, rather it should be a collaborative relationship that enables each to undertake their particular role with the knowledge and comfort that mutual support and regard is present at all times;

**Clearly defined and articulated respective roles for the CEO, the Chair and the Board itself:** confusion around accountability (i.e. for what and to whom) is a sure way to diminish the effectiveness of an organisation. Documentation and communication will ensure valuable resources are not wasted "doing business with yourself!"

**An agreed approach to ongoing feedback, both formal and informal:** an open feedback system, both formal (annual performance review) and informal (monthly meetings with the Chairman) will go a long way to ensure alignment between strategy and implementation and a create the right culture for all to work within; and

**No secrets, no surprises:** no one wants to find out about their organisation/business from the "front pages of the local paper" or a surprise agenda item at a board meeting. Relationships can be easily eroded through poor communication and generally difficult to resurrect once trust is lost.

In summary, good governance demands an effective relationship between the Board, Chair and Chief Executive. It should not be taken for granted and the expectations are both ways- make it part of your culture and your organisation will derive many positive benefits.



# REPUTATION MANAGEMENT – THE ROLE OF THE BOARD

Good reputations generally take a long time to establish, however can be tarnished and even destroyed very quickly. What role then does the board play in managing and maintaining an organisation's good reputation?

In our new world of 24 hour news, social media that provides a platform for "every man and his dog" to have his/her say without any accountability and a rapidly changing external environment, Boards and senior management must have in place a means by which to manage events that could cause irreparable reputation and brand damage.

Here are a few suggestions that should help boards to address this governance responsibility:

- Policy: develop, implement and monitor a policy in relation to how the board and the organisation should respond to a negative event. Whilst it cannot be specific due to all the potential unknowns, such matters as authorising a company spokesperson, internal and external communication strategies and resource allocation can be addressed by the board;
- Complaint's management: create a culture that sees complaints as an opportunity to improve rather than one that perceived as a negative matter. The board could request that a complaint's register is created and that the board has an opportunity to review that register at regular intervals;
- Reporting system: imbed in the board papers; if the board values reputation management as a key business driver, then the organisation should follow suit "what you measure, is what you treasure";
- Stakeholder engagement: develop and implement a stakeholder engagement plan and incorporate process and outcomes into the annual board agenda.

Effective reputation management is as much about culture as about process. Responding sooner rather than later is generally a better approach, acknowledging mistakes is generally received more positively than attempts to hide or avoid accountability and treating stakeholders with respect is recommended at all times. PR firms, lawyers and "spin doctors" will all have a position on how to manage an adverse event, however it is your clients and the community who will be the final arbiter. Good governance requires boards to take a leadership role in the establishment, management and protection of an organisations reputation and this should form part of the strategic planning and management process.

# SUB COMMITTEES – BENEFITS AND THE DOWN-SIDE

Sub committees are generally seen to be a useful approach to dealing with the business of the board and can deliver real benefits to the governance of an organisation; however there are potential down sides which should be considered and managed to achieve the best results for the business.

There are a number of benefits to be gained from adopting a subcommittee structure to assist in the effective management of the board's business and these include:

**Focus:** a subcommittee directs its attention to one matter only, thereby enabling issues to be more closely planned, reviewed and monitored in a given time;

**Organisation size:** if the organisation is large and complex, a subcommittee structure is an efficient means to enable the board to deal with all it has to deal with at board level. It may require additional meetings, however it generally means that the monthly board meeting is more manageable and effective itself;

**Access to additional resources:** a subcommittee may second additional resources to assist in undertaking the subcommittee's activities ie specific expertise that may not be available around the board table. As a subcommittee can only recommend and not make any binding decision, individuals contributing to a subcommittee do not carry the same degree of responsibility as an elected director; and

**Learning:** such a structure is beneficial in the induction and upskilling of new board members in the business of the organisation, as it allows for more time for individual board members to discuss, analyse and learn about the business.

**The downside, complacency:** unless the membership of subcommittees is rotated on a regular basis (whilst maintaining some continuity to ensure effectiveness), complacency can set due to a feeling of "they are looking after that" attitude arsing amongst board members. However being mindful of this is a simple way to ensure it does not happen.

In summary, subcommittees can generally contribute to the effective governance of an organisation, given the benefits of adopting such a structure. Like all structures though, the board should review its subcommittees through a formal process on an annual basis to ensure there is alignment between the strategy and the goals the organisation is striving to achieve. There is no right way, only the way that delivers the best result for the organisation.



# GOOD GOVERNANCE – PLAN FROM THE OUTSIDE IN, NOT THE INSIDE OUT

As the board is responsible for the direction and sustainability of their organisation, how the strategic planning process is approached will have a major impact on the effectiveness of this activity – utilising a framework that looks at the external environment will assist board members in their deliberations and decision-making.

Change generally happens incrementally and major change initiated by Governments is usually flagged well in advance. However, if we are not consciously looking at our external environment, then what should have been something we recognised and planned for can easily become something we have to react to, which may or may not generate the best result for the organisation. A framework that assists in "outside in planning process" is the PESTLE analysis, the components of which are:

**(P) Political:** what is happening in the political world that is or could impact on our business activities? Any risks to our business model from potential interventions?

**(E) Economic:** how is the general economy running/trending, will this have any impact on our business, clients, suppliers?

**(S) Social:** is our society changing in any way that we should be aware of – cultural, stakeholders, demographics, population transfer?

**(T) Technology:** no question here, technology impacts on almost every aspect of our business and personal lives, so how are we managing this?

**(L) Legal:** we are becoming a more litigious society, is our business operating in a sector that is more exposed to activity and how should we be managing this at both a board and operational level?

**(E) Environmental:** How does our business consider the environment in our planning process, operational activities and reporting systems?

These are only a few questions the board should ask itself when it takes deliberate time to plan from the outside in, not the inside out. And if the board is not doing this, then who is?

# GOOD GOVERNANCE – THE RIGHT CULTURE WILL DELIVER EVERY TIME

A Governance Excellence framework (see our website) will provide the road map to good corporate governance, however without the right culture and leadership, successful implementation will be difficult, if not impossible to achieve.

I would imagine that if we looked further into all the most recent governance failures, (Commonwealth Bank financial planning, Essendon football Club and the outcomes from the Trade Union Royal Commission to name just a few), we would find Mission and Vision Statements, Values and Principles Statements and probably even Codes of Conduct, yet the result was still disastrous for many stakeholders.

Why…? I would suggest because the prevailing culture accepted and even rewarded behaviour that allowed these particular situations to unfold. If the CBA really did have a culture that cared for its customers first and personal reward second, then the situation that arose in this business would not have been tolerated.

From governance perspective, boards collectively and board members individually must have a more "enquiring mid". Evidence rather than verbal reassurance must be sought and failure by management to "buy into" this approach should be viewed with much scepticism. Board members must also be prepared to really understand the business to enable them to ask the right questions. Lack of real knowledge and understanding severely limits a board member's ability to contribute and lead an organisation.

And finally, if you create a reward system tied to specific outcomes, you had better make sure those outcomes are aligned with your long term goals and consistent with your Mission, Values and Culture.

Good governance is best achieved when culture is aligned with strategy.



# GOOD GOVERNANCE – STRUCTURE THE BOARD TO ADD VALUE

A key ingredient in best practice in corporate governance is the actual structure and composition of the board. Diversity should generate a superior outcome, if all members are acting in good faith and in the best interests of the organisation they are charged with governing, during their individual and collective tenures.

Organisations should have a board of an effective composition, size and commitment, with a balance of skills, experience and independence appropriate to the nature and extent of the organisation's operations. Let's expand on some of these characteristics:

**Size:** between 8 and 10 seems to be the best number. Less and the workloads become more onerous and the input is reduced and anymore and the board becomes unwieldy and more difficult to appropriately engage;

**Commitment:** board members must be prepared to commit the time and effort required to effectively undertake the role, no room for "seat warmers";

**Composition:** diversity in age, gender and culture will deliver a much better outcome than 8 clones of a single type. Multiple perspectives will enhance the decision –making process and ultimately the outcome, all of which must be a bonus for the organisation;

**Skills & experience:** appropriately trained and experienced members from different professions and life experiences will also add to the effectiveness of the board. Furthermore, such diversity will also contribute to the ongoing learning and development of individual board members, again having a flow on effect to the organisation and its development.

To achieve this goal of good governance through diversity, boards will need to take the initiative and include the review, planning and implementation strategies into its annual planning cycle. Nothing will happen unless it's driven from within the board and the Chairman will play an important leadership role in this process. If all act and behave in the best interests of the organisation, committing to a diversified board should be a matter of course…so, how does your organisation stack up?

# IN STRATEGIC PLANNING, DOES STRUCTURE COME FIRST OR LAST?

A key responsibility of the Board in our Governance Excellence model is the development of the strategic plan. Whilst organisations, existing ones at least, will always start with a structure and people in place, the focus in the initial stages should be and "what and how" and then on by "whom," not the other way round.

It is not unusual for a Board and its leadership group to start the planning process by looking at current resources, that is, people, positions, infrastructure and assets in general. The next stage then generally involves trying to align that capacity and capability with what the organisation is trying to achieve. The major drawback from this approach is that the organisation is always trying to make "things fit "and will usually have to compromise one or the other to make this strategy work.

Under the **Governance Excellence** model, the Board undertakes its internal and external review, agrees on a specific strategic direction, articulates that direction through its mission and goals and then develops strategies to achieve goals. Once this has been completed, then the matter of structure (capacity & capability) is determined. If the Board commits to a certain direction and long term goals, then it must also commit and resource the structure to do what is required to be done to implement the plan. If those resources are not available or not able to be procured, then it is the responsibility of the Board to re assess its overall plan.

In the first instance, it may appear that compromise may be required either way, however the best result is achieved when the "goals, strategy structure" approach is applied in the strategic planning process. One looks at what the organisation has and what can be achieved with this, the other looks at what the organisation is trying to achieve and then what is needed to implement the plan - a subtle but important difference in governance and leadership.



# BOARD COMMUNICATION CHANNELS – IS JUST THROUGH THE CHIEF EXECUTIVE THE ONLY WAY?

Good governance requires the Board to work with and through the Chief Executive to maintain the distinction between Board and management duties and responsibilities. However, good governance also requires the Board to satisfy itself that the conduit between the organisation and the Board is free on any natural or imposed road blocks.

The benefits of a clearly defined and imposed internal communication policy include:

- Everyone should know the process and understand how it works;
- Clarity of the message – the less number of people who "pass on" the message, the less likely for it to be misconstrued along the way;
- Separation of responsibilities, thereby reducing the likelihood of either the Board's or the Chief Executive's authority being undermined or diminished;
- Stops (or should) potential "meddling "by Board members in management; and
- Provides a generally accepted standard for governance and management.

There are however potential downsides to this approach, including:

- Filtering of information both up and down the communication channel – this may be either accidental or, for some ulterior motive, intentional, the consequence of either being generally detrimental to effective governance;
- If trust is lacking in the organisation or the "right" culture is not in place, this framework is likely to contribute further to this situation, rather than provide a means to make any improvements; and
- If the right information is not going up and down the organisation, then the opportunity for "bad" decisions to be made by the Board is greatly enhanced.

To assist in reducing the risk of the downsides overriding the benefits of the preferred communication channel, here are a few strategies that Boards could adopt during the year:

- Invite senior managers to present to the Board during the year – this will allow the Board to interact with staff other than the Chief Executive and provide the Board with an opportunity to re enforce its position on particular issues/polices;
- Conduct site visits around the organisation, "meet and greet" sessions to better understand the operations of the business and again reinforce priority areas and the board position on particular matters;
- Undertake staff surveys on an ongoing/rolling basis over the year – have the report made direct to the Board; and
- Implement and communicate a Whistle Blowers policy and if someone enacts the policy, do something about it.

Why do we have such an approach? - "Trust is an emotion, not a control system! "

# COULD YOUR BOARD MEETINGS BE BETTER?

**Board meetings are your organisations key decision making forum. How well are yours working? Do you regularly run out of time? Do you stick to the agenda? Is there an agenda? Are papers circulated in advance? Do you feel that the meetings are effective?**

Here are some suggested best practices that your Board might consider adopting for their meetings:

**Annual Calendar** - establish and set an annual calendar at the beginning of the year. This will assist you achieve optimal attendance by Board members. Consider which meetings will be face to face and which will be by teleconference. Allocate specific themes to meetings: budget review, strategy review, CEO review, Board Performance Review etc. Ensure that the routine of annual business is reflected in the calendar.

**Agenda** - Always set and circulate an agenda in advance - This is the Chairman's responsibility. The Chairman should canvass Board members and the CEO (if employed) for their agendas and issues well in advance of each meeting. The Secretary should facilitate production of the agenda from the Chair's direction.

**Provide Board only time** - If your CEO or other non Board members attend the Board, ensure that there is specific Board only time and that a situation does not arise where these non Board members expect to attend all the time.

**Reports in Advance of the Meeting** - Set an expectation that information / decision support papers are submitted in advance for each agenda item.

**Insist on Motions** - Every agenda item should have a proposed outcome that is put to the meeting for endorsement or rejection.

**Capture risks and avoid conflicts** - Become risk aware. Papers should consider risk as an essential criteria for decision making. Risks should be recorded as they are recognised. Likewise, avoid conflicts of interest by asking at the start of every meeting if any Board member needs to declare a potential conflict of interest.

**Don't be distracted by Correspondence** - Correspondence should be received and noted. If an item of correspondence deserves debate then the agenda should include a specific agenda item. Likewise, when confirming the minutes of the previous meeting done be distracted from the agenda by "Business Arising".

**No General Business** - Avoid agenda items like "General Business" and "Other Matters" that open the doors to potentially unstructured, un-researched and lengthy discussion. Other Board members deserve to be forewarned and prepared for a discussion. A genuinely urgent matter can be raised with the Chair before the meeting and added to the agenda with the meeting's permission.

**Keep minutes short** - The purpose of minutes is to record that a meeting occurred, who attended and the decisions taken. Conversations, points of view, who said what etc. are immaterial. The exception to this is where a member wishes their dissent recorded. Future Boards may review your minutes so be sure that they cannot be misinterpreted or misunderstood by those who were not present.

**Meetings should not be recorded** - technology has provided the opportunity to record meetings. If this is done to facilitate production of the minutes then the recordings should be destroyed after the minutes have been produced.

**Balance your meetings** - Ensure that your Board achieves an appropriate balance in the apportionment of meeting time between the strategic, tactical and operational.

# COMMON MISTAKES NEW LEADERS MAKE

Assuming leadership of an organisation is tricky. You may arrive in a period of turmoil and be forced into crisis mode. Vital information may have been hidden before the election and not revealed afterwards. Depending on how you were elected there may be disaffected Board Members. Volunteers may be disaffected and withdraw their labour. Others may become onlookers or critics instead of participants.

Here are some of the common mistakes to avoid:

**Trying to do too much too quickly** – when you arrive in the leader's job you may have formulated an agenda of problems to fix. One temptation is to try to do it all in your first term. How change ready is your organisation? How much support do you have for your agenda? Are you increasing the risks by trying to do too much?

**Banishing the previous leader** – many new leaders are uncomfortable with active oversight from the previous leader. Perhaps your views or styles differ? Perhaps you do not hold your predecessor in high regard? Perhaps the previous leader struggles to let go? It is essential that you get a thorough and complete handover from your predecessor. Recognise that they may be spent and tired so arrange it at a reasonable pace. If they are to remain on the Board, agree a protocol where they do not criticise your direction or style in Board meetings but share any concerns with you directly. If they have left the Board, seek their support not to criticise from the "back benches" and to positively support your leadership. Those who have done the job before you have experience that is valuable to you. Find a way to access this.

**Fail to grasp the situation on arrival** – irrespective of your plans you must strive to quickly appreciate the true position you are starting from. Find out about the finances, the membership, the state of projects and the current issues facing the organisation. Then re-evaluate and re-prioritise your plans with regard to your true starting position.

**Ignore history and don't test assumptions** – they say those that ignore history are doomed to repeat it. Don't be one of them. Behind all current projects and initiatives will be some assumptions. Find out what they were and test them. Are they still valid? Do the business cases still stack up? Are changes required?

**Initiate change for changes sake** – the pressure is often on from day one. Are you effective – a person of action – or ineffective? Too often leaders initiate change for the sake of appearance. A wise leader makes change when change Is needed having regard to the organisation's ability to change, the tempo that the organisation is moving at and the risks involved in the change.

**Fail to heal any rifts caused by your election** – not all your board may have been supporters of your election. Seek out those that opposed you or are not supporters and engage with them. What are their reservations? Are you able to address these in part or in full? What is the common ground where you can expect their support? How will they continue to contribute in a meaningful and effective way?

**Don't appreciate the views of your Board** – don't be overconfident in your own views. Check in with the rest of the Board and actively canvass their opinions. If they don't align with yours then reflect on why.

**Fail to set and communicate expectations** – whether at Board level or organisation level it is paramount that you set and communicate your expectations as to timeline, quality, standards, budget, participation and reporting. Your expectations can only be met if they are known, understood, realistic and accepted.

# DO YOU APPRECIATE YOUR VOLUNTEERS?

There are over 20,000 not for profit organisations in Australia and the majority of these organisations rely in part or in full on volunteers. These volunteers range from the occasional participants to the stalwarts of the organisation, many of whom serve as Directors and senior office bearers.

The relationship with volunteers is a complex relationship and one that often receives too little attention from the organisation's management and stewardship perspective.

**Volunteers can be:**

- an invaluable and relatively inexpensive workforce,
- taken for granted,
- overworked,
- subject to Work Health and Safety legislation,
- entitled to a duty of care by your organisation,
- harder to manage than employees or contractors,
- the corporate memory of your organisation, or
- a key risk should they no longer participate in the organisation's activities.

**If your organisation has volunteers, your Board should aim to achieve a position where the organisation can:**

- identify who your all volunteers are,
- record and report on their length, effectiveness and frequency of service,
- communicate efficiently, appropriately and regularly with them, whether they are active or not,
- contact their next of kin in an emergency,
- ensure the appropriate duty of care,
- ensure compliance, if appropriate, with Work Health and Safety legislation,
- manage their recruitment and review their ongoing participation in the organisation,
- ensure their ongoing training and development needs are met,
- manage their workload,
- understand the risk posed to the organisation's sustainability by the loss of an individual or group of volunteers,
- efficiently manage any issues that arise with volunteers, and
- recognise your volunteers appropriately for their service.

In this manner you will truly **"appreciate your volunteers".**



# WHAT IS YOUR ORGANISATION'S JOURNEY LIKE?

It can be fascinating to compare your experience serving on the board of an organisation with that of a journey to a destination. How does your experience compare?

**Do you all agree on the destination?** Did you agree on a destination at the start of the journey? Did you make a plan to reach the destination? Have you thought through the risks you will face on the way? Do you have an experienced guide? What's changed on the journey? Is your destination still valid? If not, can you agree a new destination and does everyone want to go there? Is the journey in the best interest's of your organisation? Can you afford the journey? Will you run out of fuel on the way?

**Did you pick the right route for the journey?** Does it minimise the risks? Are you travelling down dead ends or taking short cuts that prove to be long cuts? Is it full of turns, mountains to be climbed and steep descents? What condition will you arrive in? Does the route change when you change drivers? Will you and your fellow passengers enjoy the journey or will some leave before the end?

**Have you missed connections?** Why was that? Was your scheduling too tight? Can you reconnect?

**Are you enjoying your fellow passengers?** You don't generally get to choose your travelling companions on a board as they are subject to an election process. What is it like travelling with them? Are some loud and boisterous, dominating conversations? Does everyone have their say? Are there cliques from which you are excluded? Does the driver (the Chairman) seek input from all board members or is the Chair autocratic?

**Do you stop and start frequently?** And if so why? To let others on and off, because you are lost and need direction, to refuel or for repairs? Are fellow travellers leaving to take other transportation?

**Are you stuck?** Have you broken down? Did you pick the right vehicle: is it overpowered or underpowered? Old or new? Well maintained? Suitable for the journey? Serviceable or can't you find a mechanic?

**Will you be welcomed at the end of your journey?** Will there be someone waiting for you or has everyone given up on you?

**Was the journey a good idea?** With hindsight would you take this journey again? What would you do differently?

# HOW WELL DOES YOUR ORGANISATION AVIATE, NAVIGATE AND COMMUNICATE?

Pilots learning to fly are taught a set of priorities: Aviate, Navigate and Communicate. These common sense priorities are just as applicable to any organisation as they are to the cockpit of an aeroplane.

**The first priority is Aviate:**

- Ensure you remain in the air, at all costs, until you can safely land,
- Keep a continuous lookout,
- Be aware of changes in your environment,
- Regularly monitor the performance of your aircraft,
- Check your attitude – is the nose pointing up or down?
- Are you straight and level?
- Are you maintaining the correct height? and
- Are your instruments working correctly?

So how is your organisation flying? What's your height and attitude? When did you last monitor your instruments and verify them?

**The second priority is Navigate:**

- Where are you?
- Where is your destination?
- What is the best way to get there having regard for the terrain, the weather and the risks?
- Do you have sufficient fuel, plus a margin for safety?
- Have you selected a suitable and safe alternative destination if you are prevented from reaching your original destination?
- Do you reliably know where you are?
- What other traffic is in the area, and do you need to alter course to avoid a collision?
- Are your on track?, and
- If not, how do you get back on track?

How well is your organisation navigating? Did you prepare a pre-flight plan? Are you on track with the plan? Will you arrive safely at your destination?

**The third and final priority is Communicate:**

Pilots are coached to ensure that the first two priorities are well under control before picking up the microphone – the exception to this being emergencies.

- Select the right channel,
- Speak clearly and concisely,
- Don't speak over others,
- Provide all appropriate information,
- Confirm your message has been received and understood,
- Listen for further instructions, information and feedback, and
- Don't fill the airwaves with distracting and unnecessary chatter.

How well does your organisation communicate? Are they dealing with the first two priorities before picking up the microphone?

Apply these three priorities against your organisation and see how well you are performing.



# VOLKSWAGEN, 7 ELEVEN AND THE COMMONWEALTH BANK – THE BOARDS CANNOT ABSOLVE THEMSELVES FROM RESPONSIBILITY

The recent and ongoing saga of the above mentioned organisations again raises the issue of the duties and responsibilities of corporate non -executive directors. Irrespective of the size of the business, the nature of the operations and the organisation structure, the board of directors retain the ultimate responsibility and no amount of posturing can remove them from this position.

The performance of VW, 7 Eleven and the Commonwealth Bank have, I believe, dented the confidence of stakeholders in the capacity and capability of directors to fairly and responsibly undertake their duties as custodians of the organisation. To "always act in the best interests of the organisation" does not mean that profits must be optimised no matter what the financial or social cost to customers, staff or the community. Somewhere, somehow in the decision-making process, someone with real authority thought it would be ok to cheat the system, customers or staff. The question is, how far up the organisation chart did such an approach to decision –making go? And, should the Board be held responsible for such poor decisions?

The 1st question can only be answered by those from within each organisation, and it is doubtful we will ever really know the truth. The 2nd question however is a not so murky! The Board has ultimate responsibility for the performance of their organisation – individual directors and the Chief Executives of those organisations are paid considerable sums of money to do their jobs and with those vast sums of money comes vast amount of responsibility. In each case there has been a fundamental break down in values, principles, culture and a basic understanding of what is the right thing to do – and if the Board isn't responsible for this key attribute of business performance, who is?

# FINANCIAL GOVERNANCE – A FUNDAMENTAL RESPONSIBILITY OF GOOD GOVERNANCE

**In today's competitive business environment, the need for good financial management and governance is at the top of the list for organisational sustainability and viability. Every board should have at least one person who is appropriately qualified and experienced in the area of strategic financial management to provide leadership in this most important area of good governance.**

Leading and managing a successful business today requires a diverse range of skills across the organisation and this refers equally to the board and its membership as well. The board must possess the appropriate skills to enable it to be effective in its financial stewardship role and to hold the executive to account for its individual and collective performance. Such skills include:

Specific industry knowledge to enable an assessment of performance to be compared to best practice;

Recognised accounting and financial management qualifications and appropriate life and work experience to understand the nuances of the role;

An enquiring mind and a willingness to spend time and effort to understand the drivers of the business and the performance of the organisation;

A preparedness to hold those responsible to account for their performance and the business results.

Whilst good financial management does not guarantee future success, poor financial management can contribute to future failure. The board has a key role to play in this area and governance excellence demands it does not absolve itself from or delegate this responsibility.

# A GOVERNANCE MANUAL – A NECESSARY COMPONENT OF GOOD GOVERNANCE

**It is generally expected that an organisation will have a documented policies, procedures and operational manuals in place to ensure continuity of practice consistent with the expectations of those responsible for leading the organisation and to remove the potential risks of decision and policy "on the run". This is also an expectation and requirement for good governance.**

A Governance Manual has many benefits in the ongoing quest for good governance including:

Creating a system that provides a framework for the business of the board incorporating policies, procedures, roles, responsibilities and duties of both board members and the Chief Executive;

- Board meeting procedures, frequency, agendas, minutes and protocols;
- Sub committees, terms of reference, accountabilities and delegation;
- Risk management – process, responsibility and management;
- Expectations of board members – time commitments, skills, accountabilities;
- Performance management – of the organisation the Chief Executive and the Boards itself;
- Composition of the board – a preferred skill set for the effective governance of the organisation; and
- A board induction process – to inform new board members and enable them to become a more effective contributor to board business sooner rather than later

Whilst the creation of a governance manual will consume valuable resources, the process itself will be beneficial for everyone involved as all will have to think about, discuss and agree on the content. This will also mean that all board members will have a common understanding of the governance framework, and that is fundamental to good governance. And finally, it must be reviewed and updated annually to ensure relevance and currency – another item for the annual agenda.

# THE NEW YEAR – WHAT SHOULD BOARDS BE THINKING ABOUT IN PARTICULAR?

The end of a calendar year is a good time to stop and reflect on the year that has just passed, lessons learnt, trends identified and create some consensus on what the board should focus or continue to focus on in the new year. Here is our view on this most important aspect of governance excellence.

The external business environment has continued to challenge both boards and management in 2015 and there is not much confidence that this will change during 2016. We do appear to have greater political stability and governments seem to be getting on with the job of doing what they were elected to do, so hopefully there will be less distraction and wastage at this level in the new year.

From what we can control and contribute to though, here are our 3 key priorities for 2016:

- **Sustainability** – is our business model right for the times in which we are operating; is our business still relevant and are we delivering a service that has a real competitive advantage as defined and valued by our customers/clients? Have we stress tested our business, undertaken a risk assessment and do we have the right structure in place? - fundamental questions that must be answered by the board and senior management after appropriate research, analysis thinking and discussion ;
- **Resources** – do we have the capacity and capability to do what we need to do to deliver our Mission? This refers to the right people in the right job doing the right thing, adequate resources to support the business and appropriate funds to allow everyone to do their job to the organisation's expectations; and
- **Stakeholders** – do our customers/clients believe in our business, prepared to pay a fair price for our goods and services, an advocate for our business? Are our stakeholders engaged with our business, do they value what we do and support us in their own way?

This in turn means that boards and senior management will have to be diligent in their approach, commit time and effort in the undertaking of their individual and collective roles and be prepared to hold themselves and others to account for their performance. These are the foundations of governance excellence.



# NOTES

## NOTES



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